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PUBLIC OPEN SPACE IN THE CITY OF TORONTO:

A RESOURCEBOOK FOR PLANNERS

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PUBLIC OPEN SPACE IN THE CITY OF TORONTO:
A RESOURCEBOOK FOR PLANNERS

VOLUME ONE: THE THEORY

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PREFACE

This research is presented as a collection of materials related to the planning and design of public open space in the City of Toronto from concept through to implementation. It is intended to serve as a resource document for planners engaged in the study of public open space who require information focussed specifically on the City of Toronto and also wish to explore the subject area on a general level to learn from the ideas and activities of others.

The purpose of the study is:

(1) to review the past trends in approach to the planning and design of public open space in the City of Toronto, focussing on the Central Core and Waterfront areas;

(2) to analyze the City's current planning practice in regard to the methods used to identify need, secure public access to a variety of open space opportunities and achieve specific open space objectives;

(3) to identify possible weaknesses and ambiguity in the current approach; and

(4) to make recommendations for the enrichment of public open spaces throughout the city.

Format and Contents

Format

The resourcebook is divided into two mutually-interdependent volumes to facilitate easy access and use of the material (especially Volume Two) on a day-to-day basis. Volume One introduces the reader to a discussion of the theoretical issues current in the subject area while the second volume is composed of the information that is more likely to be used regularly for reference purposes and in the daily decision-making process. Each chapter is followed by footnotes, where appropriate, and bibliographic references.

Contents - Volume One: The Theory

Volume One contains six chapters. Each chapter is briefly described below:

Chapter I: Grand Plans and Lost Opportunities: The Development of Public Open Space in the City of Toronto

This chapter highlights the important dates, events, and documents that have influenced planning and design of public open space in the City of Toronto. The research begins with a description of the first plan of 'Torento' harbour by Captain Gother Mann in 1788, and continues through to the most recent amendments to The Planning Act in August, 1983. This information is presented in a chronology that accompanies a synopsis of these events and a review of the lessons to be learned from the past.

Chapter II: Defining the Concept of Public Open Space

This chapter discusses the inherent advantages and disadvantages of trying to define the term 'open space' as a land use category and the added complications when public access to differing forms of open space is attempted by a municipality. The City of Toronto does not define 'open space' explicitly in the Official Plan or zoning by-law. Instead, one finds a proliferation of various terms and definitions throughout these documents that describe only a portion of a larger open space system. Recommendations are made to help erase this confusion and to encourage planners to review the Official Plan statements in this regard.

Chapter III: The Use of Parkland/Open Space Standards

The origins of the use of standards as a tool in the planning of parkland/open space is described in this chapter followed by a discussion of how the City of Toronto has adapted the standards approach to suit its own needs. The potential usefulness of standards is explored and the three most widely known methodologies are explained. Finally, the methods used by the City to assess need in the Central Core and Waterfront areas are discussed with comments and conclusions on this approach provided.

Chapter IV: Public Open Space Objectives

This chapter establishes a philosophical approach or conceptual framework within which decisions regarding the planning and design of public open space can be made. Five objectives are presented that form the basis for the development of a planning approach as follows: diversity, flexibility, need for public participation, user-orientation and integration.

Chapter V: Non-Use of Present Resources

This chapter explores the reasons why some open space resources are under-utilized. Historically, many parks have suffered from a poor location relative to their potential users. However, this is only one of many factors that may contribute to non-use. Seymour Gold and Jane Jacobs have identified several other factors such as the physical, mental, and cultural differences of users, inadequate dissemination of information, and physical barriers for the young handicapped or elderly. The works of both Gold and Jacobs are reviewed in detail as part of this discussion, since curiously, this problem is seldom addressed by planners or researchers.

Chapter VI: New Approaches in the Provision of Public Open Space: Opportunities in the Core and Waterfront Areas

The final chapter in Volume One is designed to encourage planners to view open space as a valuable resource that can, with imagination, become multi-functional in an urban community. The successful use of vacant parcels of land and parking lots as temporary parks is discussed as well as the recycling of other under-utilized resources such as roof tops, golf courses, cemeteries, and outdoor parking at grade. An inventory of open space opportunities in the City of Toronto is provided accompanied by an extensive computer listing of suitable parcels of land in the Core and Waterfront areas.

Contents - Volume Two: The Practice

Volume Two contains three chapters which are each described below:

Chapter I: Enabling Lislation

The intent of this chapter is to provide the reader with an overview of the legislative powers that influence the planning and design of public open space in the City of Toronto and environs. The powers described range in scope from the generality of The Municipal Act to the specific Official Plan statements. Excerpts follow a brief summary of each document to assist in the use of this material as a reference guide.

Chapter II Site Plan Control and Related Public Open Space Negotiation Opportunities

This final chapter describes the procedures involved in the Site Plan Control or Development Review process in detail, since the powers derived from the provisions of The Planning Act are critical to the planning and design of public open space. Other development-related negotiation opportunities are also reviewed in addition to the benefits of the above processes. The chapter concludes with a discussion of some of the extra-statutory development approval techniques that are also used by local municipalities in Ontario to direct development.

Chapter III: Techniques for Preserving Public Open Space: Acquisition, Access, and Control

Several techniques are described for use in the acquisition, access or control of land for open space purposes. The advantages and disadvantages of each technique from the perspective of the municipality are included in this discussion.

Acknowledgements

The background research for this resourcebook began as part of a project of the Urban Design Group of the City of Toronto Planning and Development Department. Later, it was broadened in scope to fulfil the requirements of the Faculty of Environmental Studies, York University where it has been submitted as a supervised paper done in partial completion of a Masters Degree in Urban Planning. I would like to thank the staff of the Urban Design Group, especially Ken Greenberg, Mary Lynn Reimer and Marc Hewitt for their support of my work. I am also grateful to Jeannie Price for her inexhaustible ability to transform my illegible notes into type. In addition, I would like to show my appreciation to Professor Alex Murray, my principal academic advisor, who introduced me to new ideas and challenges. Finally, I would like to thank my family and friends who have continued to support and encourage me over the years. John Karpenko served as an excellent editor of the historical chronology. Mark Gladysz deserves special thanks for his review and critique of earlier drafts. This work is dedicated to Paul, without whom none of this would have been possible.

CHAPTER I: GRAND PLANS AND LOST OPPORTUNITIES: THE DEVELOPMENT OF PUBLIC OPEN SPACE IN THE CITY OF TORONTO

GRAND PLANS AND LOST OPPORTUNITIES: THE DEVELOPMENT OF PUBLIC OPEN SPACE IN THE CITY OF TORONTO

INTRODUCTION

The planning and design of public open space in the City of Toronto has a long and eventful past which, unfortunately, is not well known today. This is a history filled with grand plans and lost opportunities which have shaped this city and cannot be ignored by modern planners who wish to understand and effectively direct the development of the present open space network. The bulk of the historical material is presented to the reader in a comprehensive chronology in Appendix A. This chronology highlights important dates, events and documents from the past (1788-1983) that describe:

(1) the rich heritage of open space that has been slowly diminished over time due to strong development pressures;

(2) the enduring nature of several issues fundamental to the design and planning of public open space; and

(3) the evolution and continuing sophistication of development control techniques available for use by the City in implementing its policy decisions.

It presents a brief review and summary of the most relevant and influential plans, studies and reports prepared over the years and their conclusions and/or recommendations, if any. Additional information sources regarding research techniques or specialised data resources are also noted. It is hoped that this detailed review of the subject area will lessen the tendency for researchers and planners to 're-invent the wheel' and assist in the use of the vast wealth of information available in these documents.

The chronology is accompanied below by a brief synopsis of these past events, including a discussion of the observed changes in the perception of public open space over time, and finally, a review of the lessons to be learned from this material.

SYNOPSIS

The planning and design of public open space in the City of Toronto has a tradition which spans nearly two centuries. The early plans for the Town of York, laid out by military officers and surveyors for the British Crown, reserved large parcels of land for common use and future expansions. The government laid out 768 acres known as the 'Garrison Reserve' west of the new and old town sites for military fortifications against feared American invasion. To the east, lands known as 'The Park' or the 'Common' were reserved. In addition the broken front bordering the harbour running north to Front Street, was left for use as a public walk or promenade. Lands further north from Queen to Bloor Street, west of Parliament were divided into parcels of 100 acres which were granted to prominent citizens and military officers as reward for their service and political patronage. When the Town of York expanded beyond the original 10 blocks, several acres were left open between the new and the old towns as the site of various planned public buildings such as a market, jail, church, school and hospital. The plan for the new town laid out in 1797 made provisions for some large public squares and varying lot sizes that gave the new town an open appearance in comparison with the compact layout of the old town. This early period of development was dominated by the military defence interests of the British Crown. It was during this brief era of rigid colonial planning that many of the opportunities for the provision of public open space in the City of Toronto were first created.

The early town of York was surrounded with an abundance of accessible open space. Many of the squares set aside for the location of future public buildings were not yet built upon and even the privately-owned lands such as the park lots directly north of Queen Street were frequently used and enjoyed by the town's inhabitants for recreational purposes. As the population expanded and prospered, the pressure to sub-divide these land parcels grew. This period of growth in the latter part of the 19th century was conducted almost entirely without development control. In retrospect, these rather unfortunate events collectively caused much of the Crown Reserves to be sub-divided, built-upon, or sold, largely in a piecemeal fashion due to a lack of foresight by the colonial authorities to plan for the use of these lands. This lack of foresight and observed indecision is best exemplified by the fate of the waterfront promenade known as 'The Esplanade' which were granted by the Crown for public use and enjoyment in 1818 but were slowly taken over and encroached upon by the railway companies against much public protest of the day. The park lots were sub-divided by private entrepreneurs who profited by the sale of lots for residential development. A major land lease of 287 acres in the Reserve was granted to the City in 1848 but this gift was soon revoked and later these lands were turned over the Province, from whom the city was granted two smaller land parcels totalling approximately 55 acres. Public open space was substantially reduced over time as government land was sold, or allowed for housing, cemeteries, hospitals, schools, and government buildings. For example, in 1859 the University of Toronto granted the city a lease for 999 years for the lands known as Queen's Park as long as it remained a public park. In 1894 the Province built its legislative headquarters upon the site.

Many of the parks preserved today in the City of Toronto were the result of the actions of philanthropists who donated parts or all of their holdings to the City. Examples of such gifts include: High Park, The Grange, Allan Gardens, Moss Park, Alexandra Park and Bellevue Square. These citizens also urged the City to purchase lands in proximity to the parks when available, to accommodate the anticipated increase in population of inner city neighbourhoods. Towards the close of the 19th century, pressure was building for the government to provide more parkland and open space as concern grew regarding the rapid loss experienced in past years. Again the issue was raised by the upper classes of society, formed into lobby groups such as the Toronto Guild of

Civic Art (1897). This group published a "Report on a Comprehensive Plan for Systematic Civic Improvements in Toronto" in 1909. This plan and others to follow lamented the lack of open space in the downtown, increasing street and sidewalk congestion, and lost pride in civic beautification. Although the concerns expressed by the Guild membership reflect the throughts of the contemporary 'city beautiful' movement, these same sentiments are repeatedly echoed in the various reports and plans produced throughout the following decades of the 30's, 40's, 50's and 60's.

In 1971 authors of The Urban Landscape deplored the apparent lack of commitment to the improvement of open space amenities by public officials, as evidenced by the fact that the City of Toronto Parks and Recreation Committee had in 1970 the same budget for parkland acquisition as it did in 1956. The early 1970's was a time of increased interest in parks and other types of public open space. This trend was part of the larger societial search for alternative lifestyles; a renewed interest in health and the environment current at this time. The feared energy crisis encouraged city dwellers, many for the first time, to examine the open space and leisure resources available closer to home.

Numerous reports and studies were published; many dealt specifically with the City of Toronto and Metro area municipalities. The inspiration for this increased attention was in large part the result of the previous decades lack of activity in the provision of open space directly accessible to potential users, accompanied by the rapid escalation in land values in the city. The researchers felt cause for alarm since the acquisition at market value policy of the Parks and Recreation Department had severely reduced the amount of public open space over time. Not only was the budget being steadily eroded by inflation, but the primary use of a market value acquisition policy had contributed to the most profound problems of planning public open space. These are problems of uneven distribution, poor accessibility, and potential wastage of scarce resources, since the location and timing of sites coming into use were left largely to the whims of the private market.

Studies published in 1971 such as The Urban Landscape by The Conservation Council, Urban Open Space: Luxury or Necessity? and Urban Open Space: Parks, People and Planning by The Bureau of Municipal Research took a significantly different approach to the planning and design of public open space than the majority of their predecessors. The Urban Landscape was one of the first comprehensive studies that examined all potentially useable open space in Metropolitan Toronto including parks, ravines, valley lands, the waterfront, golf courses, cemeteries, institutions, public works property, railway lands, hydro rights-of-way and vacant lots. The consideration of all potentially useable land as candidates for public use and benefit, requires planners to mentally remove the single-use label from a piece of land and examine the multi-functional qualities of the space based upon the use of behavioural or user-oriented information. Later studies prepared by or for the City of Toronto Planning and Development Department such as the 1974 Core Area Task Force and Recommendations, Design Guidelines for the Core Area - On Building Downtown, and Criteria for Open Space Related to Non-Residential Functions in the Inner Core followed a behavioural approach in addressing the problems of the Core area: a long neglected area that was critically in need of public open space.

The Central Area plan is perhaps the most significant document of the mid 1970's which reaffirmed the importance of the street as a pedestrian environment, encouraged the retention of historic buildings, and proposed criteria, policies and actions for the development of a parks system and recreation space in new developments. The Plan also introduced policies and criteria related to the regulation of selected aspects of development, taking advantage of the new acquired development review powers provided by an amendment to The Planning Act in December, 1973. The 1981 Official Plan gave public sanction and support to many of the policies developed in the Central Area Plan.

Comments

The approval of the Central Area Plan and the 1981 Official Plan have in many respects brought Toronto back to its historic roots. In essence, we have now returned to a more anthropomorphic approach to urban development: one which encourages a mix of land uses and activities that foster the retention of historic buildings and delights in the public life of the street and other gathering places. The early plans for the Town of York laid out public squares and set aside land for common use, preserving public open space for both daily activities as well as community celebrations. The City is now trying to recapture some of that lost public spirit of common land and shared experiences. Since Toronto was overly endowed with ravines, waterfront and large open spaces at the beginning, the City has never felt the necessity to fight for the retention of these resources until now.

To the first local municipal officials, the large land reserves and the inherited system of the private development of the park lots probably seemed the largest obstacle to the growth and future progress of the city. For example, the uneven rate of development of the lands north of Queen Street created serious transportation problems when 100 acre parcels of land surrounded by surburban development were left for many years in their natural state, if the owner desired.

The early public parkland proponents argued that walks in a park setting would be morally uplifting to the families of the lower classes. Later in the 1920's and 1930's, many supported the introduction of some form of development regulation for health reasons to bring more light and air into the downtown areas. Parks were thought to be the 'lungs of the city', in that the provision of naturally landscaped areas in the city would reduce pollution and help cleanse the air. The decades of the 1940's and 1950's saw a growing concern for the appearance and efficient operation of the city. Particular regard was paid to problems of traffic management and the standardization of public street utilities. The latter part of the 1950's and the 1960's were times of affluence and increased rates of growth. The provisions of the zoning by-law allowed for the proliferation of large towers surrounded by ornamental plaza space. Little thought was given to how these spaces would impact upon the life of the city, since they were thought of primarily as pedestals upon which a building was highlighted for greatest visual effect, and not as a public space. Also during this time, public parkland was primarily planned and designed to meet the recreational needs of young children, so most of the available resources were targeted for residential areas and suitably equipped.

Since the early 1970's the efforts to provide public parkland have been divided amongst a larger user population, particularly in the downtown: day and night time populations, business people, residents and visitors. Park design is divided into serving both active and passive leisure activities. The various aesthetic, ecological, urban design, and social/psychological functions of open space are now recognized. The orientation in planning and design focusses more closely on the potential users of the space in an effort to combat the problems of non-use amidst times of financial restraint. Working towards this aim has encouraged planners to search for new uses for lands traditionally not thought of as offering recreational potential, such as old railway lines, vacant lots, cemeteries and church, school or government building lands.

This synopsis and chronology of past events is intended to provide planners with a context within which current decisions concerning the planning and design of public open space can be made. Several insights can be gained by a thoughtful review of the material. Firstly, one cannot help but be struck by the continued cry for the preservation of public open space throughout the city, especially in the downtown area. This cry seems particularly painful when one considers the opportunities that were lost over time. Secondly, the largest infringement on public open space has been perpetrated by government itself, for various public works, housing, and institutional purposes. This infringement has been constant and incremental over the years. It is reflective of our ingrained pioneer attitude that considers open space as simply land waiting for development. This attitude re-surfaces from time to time as justification for locating an expressway in a ravine system or the paving over of parkland for development. Current examples include the proposed construction of the Leslie Street extension through ravine land, the favoured conversion of the Leslie Street Spit to accommodate a yacht club and mooring facilities; the proposal by Metro to pave Gore Park to provide extra parking spaces for the Dome site at the Exhibition grounds, and the increasing privatization of public parkland at Harbourfront. These events cause one to wonder if it is possible to learn from the past. They serve to remind us that ideals and good intentions will not preserve public open space nor achieve the objectives of any plan without lasting financial and political commitment. This is perhaps the most difficult lesson to learn after all.

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CHAPTER II: DEFINING THE CONCEPT OF PUBLIC OPEN SPACE

DEFINING THE CONCEPT OF PUBLIC OPEN SPACE

INTRODUCTION

One of the major difficulties planners must contend with is the wide divergence of opinion regarding the composition of open space generally, and public open space specifically. Most studies and planning reports define their open space terms as necessary to suit the parameters of their research, if at all. A range of definitions may be used from inclusive, (i.e. all lands not built upon) to restrictive, (i.e. public parkland only). The observed variation in approach is due in part to lack of commonly-accepted open space definition(s) or one which can be adapted to serve in a variety of circumstances. These inconsistencies make comparisons between the policies and practices of various municipalities more difficult and may lead to some confusion in the minds of the public. This section explores the main advantages, disadvantages and added complications of defining public open space. It also critically reviews the definitions or terms used by the City to describe components of its open space network. The section concludes with a discussion of some important functions new definition(s) of public open space should fulfil, followed by a list of recommendations.

PROS AND CONS

A descriptive categorization of open space terms has distinct benefits and drawbacks to the planning and design process. Well thought out terms and definitions recognize the variety of open space opportunities available within a municipality. The development of definitions may also clarify the role of each component of the open space system and how each inter-relates within the system. However, definitions may be overly-restrictive, (i.e. one local park requires two park benches, one swing and three garabage cans, etc.), emphasizing equipment or landscaping materials rather than function or recreational experiences provided for. Similarly, categorizations of open space may fail to facilitate planning and design if they are inadequate for the task and essentially non-descriptive. The long term use of such definitions may stifle the imagination and interest of both planners and the public if new opportunities are not taken advantage of and the system is not reflective of, and responsive to, the open space objectives of the local population.

THE ADDED COMPLICATIONS OF DEFINING PUBLIC OPEN SPACE

The task of defining public open space is further complicated by the addition of the word ´public´ as an adjective to the concept of open space. The meaning of the word in this context may be viewed from three perspectives as follows:

(1) Legal Perspective:

> Legally, public open space is confined to those lands available for public use by right derived from purchase of the fee simple or through lease agreements. The majority of these lands are maintained as public parkland and are clearly

identified as a public resource for leisure and recreation. The governmental authority in charge of managing the lands for the public good usually places minimal restrictions on access.

(2) Social/Common Use Perspective:

This perspective recognizes that some privately-owned lands are frequently used by the public in an informal, on-demand basis. These spaces, (both indoors and outdoors), become part of the public open space network by power of common use. One frequently observes signs such as worn paths, litter, broken fences and hedges, where the public have ´spilled over´ onto private land. The reasons for this differ from place to place. Shortcuts usually represent the most direct route between points, sometimes irregardless of obstacles. Some owners encourage the public use of their lands with limitations, (retailers, restaurants, shopping malls), or generally do not restrict access, (landscaped grounds of private developments). Lands located adjacent to public streets, in particular, may provide open space opportunities due to their relative proximity to a known ´public´ open space.

(3) Public Perception Perspective:

It is difficult to understand and predetermine why some urban open spaces are generally perceived as ´public´ open spaces while others are not, regardless of ownership. Figure 1 provides a summary of the Ministry of State for Urban Affairs study: Towards a Process of Urban Open Space Planning, in which the perceptions of municipal politicians, planners and the public towards urban open space were explored.(1) In this study it was found that a citizens panel had a restricted perception of the composition of urban open space as did, to a lesser extent, the panel composed of municipal politicians. The urban planners panel included more elements in their definition although generally all three panels exhibited a rather narrow view of the composition of urban open space. The public panel demonstrated a stronger sense of division between publicly and privately-owned lands. It is important to note that in this study the open spaces around office and apartment buildings were not perceived by the public panel as being part of the urban open space network, although it is precisely this kind of open space, (i.e. landscaped open space and common outdoor space), that the City of Toronto tries to provide for the benefit of the public, through its negotiations with the developers. The problem stems from the fact that much of this open space is designed primarily to visually compliment and highlight the built structure, giving the surrounding space a predominantly private feel to it, rather than as open space that supports and encourages use by the occupants of the building, as well as the general public.

Figure 1: THE COMPOSITION OF URBAN OPEN SPACE

Elements Perceived as Included

(1) Undeveloped natural areas, and floodplains.
(2) Recreationally developed natural areas.
(3) City, district and neighbourhood parks, with or without recreation facilities in them.
(4) Schoolyards.*
(5) Tot lots or small playgrounds.
(6) Private open spaces such as golf clubs, etc.*
(7) Open squares or plazas, grassy or concrete.**
(8) Major boulevards and promenades.
(9) Small spaces in the midst of urban development.

Elements Perceived As Not Included:

(1) Hydro or other utilities corridors.***
(2) Churchyards and cemetaries.
(3) Open space around office and apartment buildings.
(4) Vacant lots.
(5) Unused industrial areas.
(6) Rooftops of downtown buildings.
(7) Parking lots.

* Excluded by citizens panel.

** Excluded by municipal politicians panel.

*** Included by urban planners panel.

Source: Burton, T.L., J.B. Ellis and P.M. Homenuck. Towards a Process of Urban Open Space Planning. Ottawa: Ministry of State for Urban Affairs. 1976 p.31.

THE USE OF OPEN SPACE DEFINITIONS IN THE OFFICIAL PLAN

The City of Toronto has a proliferation of terms and legislative definitions in the Part One Official Plan and General Zoning By-law that relate to the planning and design of public open space. (See Figure 2 for a listing of the terms and legislative definitions used; refer to Appendix B for the full description of each open space definition provided in the Official Plan and Zoning By-law).

There appears to be some overlap in the definitions used. For example, in the Zoning By-law ʹshared recreation spaceʹ, ʹcommon outdoor spaceʹ, and ʹlandscaped open spaceʹ all describe potential open space opportunities provided for use by the public and/or residents of a development generally of a recreational nature, either indoor or outdoor. Under these definitions, then, the provision of a tennis court facility could satisfy the requirements of all three: in one development it could be classified as ʹshared recreation spaceʹ, in another development as ʹcommon outdoor spaceʹ, and as ʹlandscaped open spaceʹ in another. Clearly, the wording used to describe each of these definitions does not reflect the original intention of the Central Area Plan, wherein it was proposed that a typology of recreation space be adopted in recognization of the inappropriate use of ʹlandscaped open spaceʹ as a kind of catch-all open space definition.(2)

Similarly, the definitions in the Official Plan do not seem adequate to describe the functions of the various types of open spaces found in the City. The definitions of both district and local parks focus attention on the facilities provided. A local park must be at least 1300 square metres in size to be classified as a park. The inadequacy of this definition is apparent due to the fact that the Parks and Recreation Department has had to devise other terms, such as ´parkette´ and ´mini-parkette´, to describe parcels that do not readily fall within their classification system.

The term ´open space´, found in the Part One Official Plan is defined in the plan by the boundary lines shown on Map 1A (Amendment to Map 1 for Parks of the Central Area). Examination of the areas labelled open space reveals a curious mixture of the following land parcels: St. James Cemetery, portions of the Rosedale Ravine and Riverdale Park, Ramsden Park, Wellesley Park and the Necropolis Cemetery. It is unclear why these particular areas are designated as open space on Map 1A, when other well known public spots such as Nathan Phillips Square, Allen Gardens, and Moss Park, for example, are not included. This map only serves to further complicate the question of what constitutes open space in the Central Area of the City of Toronto.

Ms. Pat Foran, (Deputy City Solicitor), has raised many issues related to the problem of negotiating public access to certain types of open space that do not specify this right in the Official Plan, Zoning By-law or by legal agreement.(3) The City has no legal ability to require public access to land it does not own or lease. It is important that developers and planners involved in negotiating open space understand and agree upon the intended public functions of the space. For example, the developer may agree to provide landscaped open space for public use, yet unwittingly block access through the inappropriate placement of landscaping materials and street furniture. Obvious barriers to access such as fencing must be shown on the landscaping plans submitted for approval, however, more often than not it is the small silent clues that the public 'read', that determine the likelihood of the success of the area as a public open space. Finally, she has also raised concerns that the City should protect itself from liability claims if the public enters on to private land without the consent of the owner.

Figure 2: VARIETY OF OPEN SPACE TERMS AND LEGISLATIVE DEFINITIONS FOUND IN THE CITY OF TORONTO OFFICIAL PLAN PART I AND ZONING BY-LAW

- continuous paths*
- common outdoor space**
- existing streets and lanes*
- landscaped open space**
- major parks system*
    - regional
    - district
    - local
    - city

- open space***

- park*

- pedestrian environment*

- pedestrian walkways in private development*

- public park**

- public/private ravine land*

- public streets

- recreation space*

- shared recreation space**

- significant views*

- street**

- street park*

- walkways and space for pedestrians*

* O.P.
** Zoning By-law
*** O.P. Map 1A

TOWARDS A NEW DEFINITION OF PUBLIC OPEN SPACE

The variety of open space opportunities available to the public in the City of Toronto complicates the search for a functional definition of public open space. Within the context of this research, the concept of public open space encompasses all open space opportunities, to which the public has access, in the broadest sense of the word. Perhaps it would be useful for planners to consider open space as a continuum of opportunities with access that ranges from private and restricted at one end of the scale, to public and open at the other, with a mulitiplicity of options in between. For planning purposes, it is important that each type or category of open space be recognized as an integral part of the large open space network. It is even more critical that planners appreciate that firstly, open space can fulfil a variety of functions, and secondly, that many types of public/private resources may fulfil the same open space function. In this way an accessible pool in a hotel complex may serve as a public open space resource that would make municipal resources redundant if duplicated in the same area. Ideally, any new definitions of open space adopted by the City should:

(1) emphasize use of the space but not dictate design. The involvement of the local community is needed in the design process;

(2) acknowledge and reflect the variety of functions (4) of open space in the city; and

(3) recognize the legal implications of encouraging the public use of private land. Should the nature of tenancy be included in the definition? How does this factor influence or restrict the use of the land by the public?

RECOMMENDATIONS

(1) The City needs to reduce the variety of terms and definitions found in the Official Plan and clarify the legal public use of each component of the open space network.

(2) Some system of monitoring the public use of open space should be introduced to assess the continuing accuracy of adopted definitions.

(3) Although not legally valid, it may be useful from a planning and design perspective to develop a more inclusive definition or concept of public open space which focusses attention on public use and accessibility of the space, not just ownership, (i.e. ´commonly-used open space´ or ´publicly-accessible open space´).

FOOTNOTES

1. Burton, T., J. Ellis and P. Homenuck. Towards a Process of Open Space Planning. p.31.

2. City of Toronto Planning Board. Proposals, Central Area Plan Review, Part I: General Plan. p. B.3-19.

3. P. Foran (Deputy City Solicitor), interview held at the Legal Department of the Toronto City Hall, July, 1983.

4. For detailed information on the functions of open space (economic, urban design, natural, outdoor recreation, social contact, and retreat functions, for example) see Open Space Study: Analysis and Policy Recommendations published by the City of Ottawa in 1976.

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CHAPTER III: THE USE OF PARKLAND/ OPEN SPACE STANDARDS

THE USE OF PARKLAND/OPEN SPACE STANDARDS

INTRODUCTION

An open space standard is defined by the Bureau of Municipal Research as "... a measure of the amount, type and/or location of open space needed to provide space adequate to fulfil various agreed upon open space goals. It may or may not be expressed quantitatively."(1) The origin of the use of standards as a tool in the planning of parkland/open space is described in this section followed by a discussion of how the City of Toronto has adapted the standards approach to suit its own needs. The potential usefulness of standards is discussed and the three most widely known methodologies are explained. Finally, the methods used by the City to assess need in the Central Core and Waterfront areas are reviewed with comments and conclusions on this approach provided.

ORIGINS

The development of space standards has been an ongoing function of The National Recreation and Park Association (NRPA) since 1906. An influential report "Standards for Neighbourhood Recreation Areas and Facilities", published by NRPA in 1944 recommended that municipal governments should provide at least 10 acres of publicly owned park and recreation space per 1000 population. The origin of the standards adopted by the City of Toronto is the 1956 report: Urban Renewal: A Study of the City of Toronto. In this study the NRPA parkland and recreation space standards were dismissed as being "... not feasible for a highly concentrated urban centre such as Toronto."(2) Instead, public open space standards were proposed based on the density of planning areas in the downtown as follows:(3)

Average Net Lot Density persons per acre	Acres/1000 neighbourhood parks
200	1.20
150	1.20
100	1.00
60	1.00

In addition, the study presented 'tentative park proposals' summarized as follows:(4)

	Acres/1000	
	Proposed	Existing
Metropolitan, "Major", and Special Use Parks	3.0	2.5
District Parks	.5	.3
Neighbourhood Parks	.9	.4
Other parks in Industrial and Commercial Areas	.2	.1
Total	4.6	3.3

The Urban Renewal report contained several remarkedly advanced principles and objectives for the planning of public open space in the City of Toronto, as summarized below:

(1) size and location of neighbourhood parks should reflect the average residential density levels and variety of housing stock available in the neighbourhood.

(2) the City of Toronto should provide open spaces for recreation in residential, retail, commercial and industrial areas, including the waterfront.

(3) the recreational/open space needs of the worker and shopper in the densely built-up downtown areas of the city should be an important planning consideration.

(4) parks should be linked (in neighbourhoods and larger planning areas) together by landscaped walkways or rights-of-way. School grounds should link with parks and/or other school grounds to create larger parcels of open space; and

(5) the classification system included "Special Use" parks to distinguish the unique functions of open spaces such as Queen's Park and Exhibition Park from other parklands recognizing the non-local origins of many of their visitors.

In later reports, however, much of this approach appears to have been abandoned. The proposed acreage figures for district and neighbourhood parks were combined into 1.4 acres/1000 population; a step that obscured their separate origins.(5) Much of the attention and funds were directed towards meeting the needs of the residential population. These standards remained in use virtually unchanged until 1969 when the new Official Plan set the following park standards:

i) 1.4 acres per 1000 population for all persons whose place of residence is more than 1/4 mile walking distance from a regional park.

ii) local parks at a distance not greater than 1/4 mile for all persons whose place of residence is not within 1/4 mile walking distance of a regional park.

iii) district parks at a distance not greater than 2 miles for all persons whose place of residence is not within 1/4 mile walking distance of a regional park.(6)

These standards adopted by the City of Toronto in 1969 and others still in use today have drawn considerable criticism because of their simplistic generalizations and lack of sensitivity to recreational needs.

NEED FOR STANDARDS

In the past, national standards were often blindly adopted by municipal governments without a careful consideration of their own municipal resources and aspirations. However, one should not dismiss the potential usefulness of space standards as a planning tool. Standards are best suited for use as guidelines in the decision-making process since they offer the planner a method for easy comparison (i.e. with other municipalities of a similar size and population structure) and thus provide an evaluation of relative accomplishment. The National Recreation and Park Association supports the use of space standards as a way to develop "... a unified and balanced system of park and recreation lands and facilities."(7) The association lists the principal uses of standards as follows:

"1. the development of a comprehensive plan of park and recreation areas and a systematic approach to land acquisition;

2. the determination of what and how many recreation facilities are needed to best serve the people and where they should be provided;

3. the justification to political bodies for the acquisition and development of park and recreation lands and facilities and to determine priorities, and

4. use as a measure against which the effectiveness of the park and recreation system can be evaluated."(8)

Seymour Gold asserts that each municipality must adapt generalized standards such as those developed by NRPA to their own particular circumstances. In Recreation Planning and Design, Gold identifies five criteria for the development of standards:

"Any measures used to determine relative need and deficiency should be:

1. Based on the latent and expressed recreation demand of the general and special populations of a planning area.

2. Attainable in the planning period by a combination of public and private action or alternatives provided.

3. Understood and supported by the public or their elected representatives.

4. Based on the leisure behaviours, environment, and social values on the planning areas, and

5. Measures of quality, performance, or effectiveness for a given time period population group, and planning area."(9)

METHODS USED TO DEVELOP STANDARDS

The NRPA recognizes three types of standard methodologies:

1. Population Ratio Method

2. Area Percentage Method, and

3. Needs Determined by User Characteristics or Demand Projections

Population Ratio Method

The population ratio method is the best known and most commonly applied standard. Total park and recreation space in a municipality is expressed in a population ratio (area/1000 people). Appendix C-1 and C-2 contains excerpts of the population ratio standards recommended by NRPA and the Ministry of Culture and Recreation of the Province of Ontario. The population ratio method is easy to use and understand and is practised by many municipalities in Ontario such as Etobicoke, Mississauga, Burlington, Hamilton, London, Peterborough, Brampton, St. Catherines and Oakville. See the enclosed comparison of park standards of these municipalities in Appendix D excerpted from the

Town of Oakville Official Plan of 1979. In 1973 Project Planning Associates Ltd., conducted a questionnaire survey of 20 municipalities with populations of 50,000 plus. Metro Toronto's open space ratio was the lowest at 3.56 ac/1000 pop. The highest ratio was found in Thunder Bay at 336 ac/1000 pop. although the majority of municipalities provided open space ratios closer to 6.5 ac/1000 pop. Their open space target ratios were much higher at 7.5 to 20 ac/1000 pop.(10) The ease with which this method can be applied has encouraged its use in many municipalities. However, planners must recognize that population ratios give only an approximate indication of land available for use of the residents of a municipality. Population ratios do not provide any sense of the recreational value of the land nor an indication of potential or actual use. The uniform application of this planning methodology assumes a degree of homogeneity in the community profile, open space resources and objectives which is, at best, a simplistic approach.

Area Percentage Method

This method recommends what percentage of the total (gross) area of the municipality should be devoted to public recreation and open space. Ten percent is the most commonly cited standard in open space studies. The NRPA recommends "... that a minimum of 25% of new towns, planned unit developments and large subdivisions be devoted to park and recreation lands and open space." (11)

This method is perhaps the least useful to planners in large urban centres except in cases where the development of large parcels of land are involved since it cannot be responsive to changes in density levels. The Planning Act of Ontario permits Council to require the conveyance of parkland at 5% of residential development and 2% of industrial and commercial land development.

Needs Determined by User Characteristics or Demand Projections

Selected variables such as population characteristics, income, location, accessibility, personal preferences etc. are examined to gauge their influence on user (or non-user) behaviour. Many researchers suggest that the study of user behaviour will yield the most valuable information. The classic work in this field is Open Space for Human Needs by Kevin Lynch et al. Another example of this type of research and approach to open space standards is the work done by the Bureau of Municipal Research in 1971, Urban Open Space: Parks, People and Planning in which they conducted a study of user behaviour in Toronto based on interviews with people in parks concerning distance travelled, activities, mode of travel, sex and marital status, age, household composition, dwelling type, education, occupation, ethnic origin and other factors. Concerning distance travelled to parks, the following pattern emerged in their study:(12)

Distance Travelled to Parks	% of Respondents
1/8 mile	21%
1/8 to 1/4 mile	9%
1/4 to 1/2 mile	20%
1/2 to 3/4 mile	4%
3/4 to 1 mile	5%
1 mile or more	35%

Based on this information, the Bureau concluded that "... because of the users' obvious preference for short distances, planning emphasis should be on the short distances; and because of users' lack of enthusiasm for the middle distances, planning should not emphasize this 1/2 mile to 1 mile range."(13)

Other Methods to Consider

In addition to the three methods discussed briefly above, Seymour Gold has described numerous other methods in current use and has summarized them neatly for easy comparison in his book.(14) These methods range markedly in their required data inputs, sensitivity to selected variables, and cost of use adaptability to varying circumstances. Gold warns the reader that no matter which method or combination thereof are utilized, the creation of standards should be founded upon objective factors rather than arbitrary judgements.(15)

METHODS USED BY THE CITY OF TORONTO TO ASSESS NEED IN THE CENTRAL CORE

The Central Core parkland and recreation space policies of the 1981 Official Plan represent a dramatic departure from the past blanket Official Plan policies regarding the type and amount of parkland needed in the City of Toronto. The Official Plan statements excepted below were given considerable thought in their development as part of a series of planning studies undertaken for the Central Area Plan. Their most significant features are:

1) the recognition of the diverse nature of open space/recreational resources and objectives throughout the city and the need for particular attention in areas of the city with unique open space problems such as the Central Core.

2) the introduction of several qualitative, in addition to the more familiar quantitative, criteria to aid in the evaluation of the parkland system and;

3) the public commitment by City Council to the creation of a basic and extended park system in the Central Core based upon the fulfilment of both short and long term goals.

Excerpts

Parkland and Recreation Space in the Central Core(12)

5.21 It is the policy of Council to ensure the provision of a system of adequate and appropriate parks in the Central Core for the use and enjoyment of its residential and working populations, and for others who use or visit the Central Core.

5.22 In determining the adequacy and appropriateness of parks in the Central Core, Council will have regard for:

(a) their distribution throughout the Central Core;

(b) their proximity to potential users;

(c) their location relative to the physical surroundings;

(d) the appropriateness of their size and design to anticipated activities throughout the year; and

(e) the degree of public involvement in their design.

5.23 (a) Council's short-term parks goal for the Central Core is the achievement of a basic parks system in accordance with this Plan by the end of the year 1985.

(b) In order to provide a basic parks system for the Central Core, it is the objective of Council to ensure that no places of employment or residence are further than 200 metres walking distance from either a local park or a district park.

5.28 It is the policy of Council to ensure that local parks in the Central Core are sufficient in size to accommodate both active and passive recreational uses, including athletic facilities and playgrounds in areas where housing suitable for families with children is located.

5.30 (a) Council will review annually the progress of the City toward meeting its objectives for the achievement of a basic parks system for the Central Core. Council will establish annual targets for parks acquisition and development in the Central Core, in accordance with Map 7, 'Central Core Parks Development Program' (attached) which forms part of this Plan.

(b) Notwithstanding the parks development priorities shown on Map 7, Council, by resolution, may adjust its priorities in order to ensure that an adequate parks system will be available in High Density Mixed Commercial-Residential Areas, in conjunction with the development of housing.

5.33 It is the policy of Council to review the performance and utilization of the basic parks system for the Central Core as it is developed according to this Plan. Council will undertake studies, based on this review, in order to define a long-term parks system for the Central Area with a view to adopting a program before the end of the year 1985 for the achievement of such a system.

COMMENTS

The City of Toronto utilizes a 'level of service' approach, as defined by Gold in Recreation Planning and Design(16), based on the following objective that in the Central Core "... no places of employment or residence are to be further than 200 metres walking distance from either a local park or a district park"(17). Simply stated, the goal of the basic parks system is to provide parkland to all within a reasonable walking distance. The specific wording used to quantify this aim suggest that certain assumptions have been made regarding the use of parks in the Central Core that are worth noting:

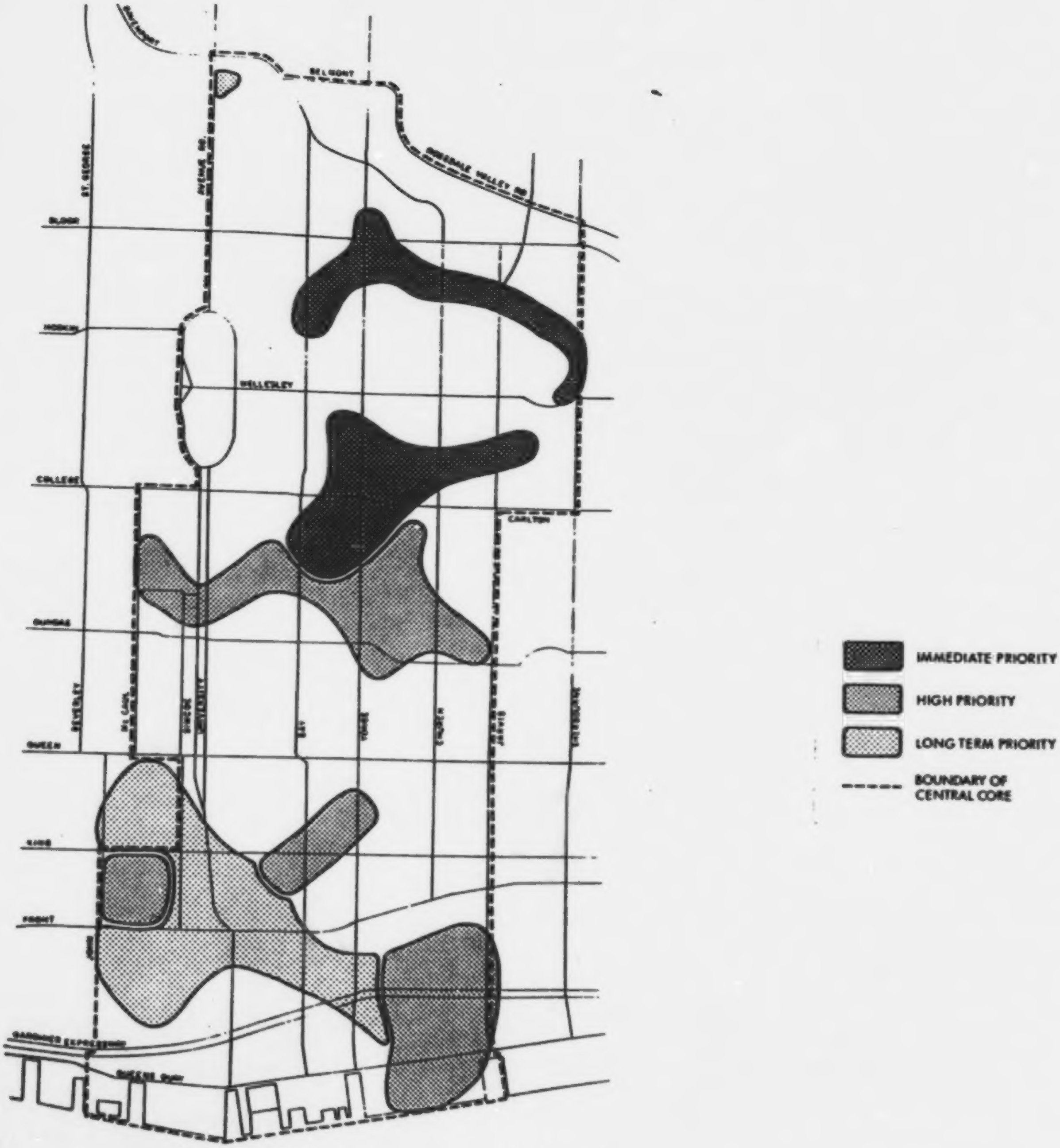
1. Mode of transport to parks in the Central Core is primarily by foot;
2. People will use or are best served by parks located close to their place of residence and/or work; and
3. The primary recreation needs of the population can be satisfied in a local and/or district park.

The main difficulty in accepting the basic parks system objective and underlying assumptions is that, in reality, the decision-making process regarding the individual and group useage of parks and open space is understood intuitively to be quite complex even though it is not to date well documented.

The adopted basic park land objective, when coupled with an implementation/acquisition strategy based upon filling in the gaps identified on Map 7 of the Official Plan, becomes a very simplistic and static exercise in park planning since the information used to develop Map 7 is based upon the preceived parkland needs of the Core population at one point in time and may not necessarily be relevant for the life of the implementation phase.

The decision to visit a particular park site is complicated by many potential factors besides simply distance from origin; weather conditions, accessibility, time available, activities planned, and the strength of competing interests may also have influence. With choice, most people will select to visit a park that supports or enhances their intended activities and desired experiences. For example, in the summer, workers in the downtown area will travel specifically to hear the outdoor noon-hour concerts provided on the grounds of the T-D Centre and Nathan Phillips Square, by-passing other open spaces and parks on the way, largely because these spaces are successful people places. However, a team interested in playing a game of touch football would not play at Nathan Phillips Square nor Queen's Park (both classified as district parks) due to the fact that even though both parks are of sufficient size to accommodate the game, the formal atmosphere of the grounds discourages this kind of activity. Such parks should be relabelled "Special Use Parks" as

MAP 1: CENTRAL CORE PARKS DEVELOPMENT PROGRAM



SOURCE: CITY OF TORONTO OFFICIAL PLAN, MAP 7,
DATE: APRIL 1981

was first recommended in the Urban Renewal report of 1956, to acknowledge the fact that not all parks in the City of Toronto serve identical functions nor are suitable for all activities. Some parks in the city have obtained a special character or significance to the public because of their size, historical evolution, the activities they support, or buildings they encompass or location.

It is important to remember that parks may succeed or fail for a variety of reasons. Many times failure is due to the inability of the park design to support the function or set of functions desired by the potential users. See the chapter on 'Non-Use of Present Resources' for information on the variables that influence the capacity of a park design to meet the needs of the users.

CONCLUSIONS

The parkland classification system should be reviewed if it is to be used as the basis for the Central Core parkland acquisition objective. The distinctions made in the definitions of a local and district park in the Core are lost when the standard groups both types of parks together. This leads to the confused situation where, for example, Nathan Phillips Square is technically a district park that also serves as a local park for those who live or work within 200 metres walking distance. The definitions require that local and district parks must be of sufficient size to accommodate both active and passive recreational uses. This provision limits the variety of open spaces that may be used as parkland and is unsuitable in the Central Core where the majority of people engage in passive activities and the cost of land is prohibitive. The City should recognize the importance of small open spaces in the Central Core by including all the parkettes and remnants of private semi-public spaces into the mainstream of park planning and design for this part of the city. This requires some extra consideration and degree of flexibility in approach. The Central Core population would probably derive the best use from the provision of many small parks and sitting-out areas located along major pedestrian walks which link residential and commercial areas with shops and restaurants throughout the downtown area.

FOOTNOTES

1. Bureau of Municipal Research. Urban Open Space: Parks, People and Planning p.6

2. City of Toronto. Urban Renewal: A Study of the City of Toronto p.5

3. Ibid., p.16

4. Ibid., p.18

5. City of Toronto Planning Board. Report on Parks and Open Space. p.5

6. City of Toronto. 1969 Official Plan (Section 2.12 i,ii, and iii)

7. Boecher, R.D. (ed.) National Park, Recreation and Open Space Standards. p.7

8. Ibid., p.7-8

9. Gold, S. Recreation Planning and Design. p.55

10. Project Planning Associates Ltd. Urban Open Space Study for Canadian Communities: Inventory Stage. See ´Summary of General Tabulation´ - Table 3.4. n.p.

11. Buecher, R.D. (ed.) National Park, Recreation and Open Space Standards. p.12

12. Bureau of Municipal Research. _Urban Open Space: Parks, People and Planning_. p.21

13. _Ibid_., p.28

14. Gold, S. _Recreation Planning and Design_. p.55

15. _Ibid_., p.55

    Note: For further information on new approaches to recreation standards methodology, see pages 186-188.

16. _Ibid_., p.55

17. City of Toronto. _1982 Official Plan Part I_. p.85.

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CHAPTER IV: PUBLIC OPEN SPACE OBJECTIVES

PUBLIC OPEN SPACES OBJECTIVES

INTRODUCTION

It is necessary to establish a philosophical approach or conceptual framework within which decisions regarding the planning and design of public open space can be made. This chapter presents five objectives that form the basis for the development of a planning approach: diversity, flexibility, need for public participation, user-orientation, and integration.

DESCRIPTION OF OBJECTIVES

Diversity

Planners should recognize the variety of public open space opportunities available in as large and complex an urban environment as the City of Toronto. This wide range of choice in lifestyles and activities attracts a large number of people to this city with similarly diverse backgrounds and expectations. It is possible to increase diversity in public open space in two ways: 1) increase the range of new opportunities available and 2) develop new forms within the established framework. To increase the range of public open space opportunities, planners must recognize the potential of the urban form. Streets and sidewalks, vacant lots, cemeteries, roof tops, shopping malls, restaurants, landscaped grounds surrounding private developments are components of a larger open space system that offer the urban dweller a variety of recreational experiences beyond those available in a public park. Within the park setting, it is important to strive to create diversity in design, form and function. Public parkland located in the Core area, in particular, must offer a wide range of activities to accommodate and attract business people, tourists, residents, and shoppers. In large park settings such as High Park, this is possible to achieve through the design and creation of activity areas within the park itself. In smaller parks in the Core area, this may be achieved thorugh the specialization of activities or landscaping features of individual parks and spaces. In this way, the public is offered choice and variety in their recreational experiences.

Flexibility

To be successful, public open space must be designed to be flexible enough to accommodate a variety of users and activities. This objective is related to diversity discussed above, but in this sense flexibility refers to the capacity of a particular space to adapt to the demands made upon it. A design must be able to accommodate both the anticipated and spontaneous activities and events that are a part of urban life. Local neighbourhood parks, in particular, need to be able to change and develop according to the needs of the community, as it matures and renews itself. Designs that are static in appearance and spirit discourage use and invite neglect. Public open spaces may have entirely different types of users dependent upon the time of day, month, or year so the physical form and amenities, should where possible, be fluid enough for multiple useage as needed. Increasing the use and enjoyment of outdoor space in the winter months in the city is an area that needs considerable research and experimentation.

Need for Public Participation

There is a crucial need to involve the local community in the planning and design of public open space in a meaningful way. Fundamental to the success or failure of a space is the degree of public involvement in its being and conceptualization. The participation of the public in the design, development and management of open spaces is necessary if the largest range of opportunities (public and privately provided) is to be taken advantage of. Residents involved in the initial stages of the planning process, to convert a vacant lot into a playground for example, will feel a greater sense of satisfaction and community responsibility towards the upkeep of the space than if it is imposed from above without consultation. Planners and designers often times neglect to utilize the talents and resources of the people they are planning for. In so doing, they increase the chance of misinterpretation in their plans and doom the park to failure or at best, indifference.

User-Orientation

Design must serve the needs of people. The success of any public open space can only be measured in terms of human use and enjoyment. Space that is planned to emphasize visual rather than functional design criteria will not be used. This is planning and design on the micro-scale because the potential users of open space vary widely from site to site. Incorporating the opinions, needs and desires of people into the design process is not an exact science. Assumptions must be made and conflicting information resolved or discarded. It is a process that requires careful observation of how people use space and then making decisions based on the available information and the intuitive resolution that becomes physical reality. Few planners, however, learn from their mistakes, near misses or even successes because they fail to conduct a post-occupancy evaluation. They miss an opportunity to learn and observe how the space works and then use these insights as ways to improve their approach in the future.

A user-orientation focusses on the needs of select user groups such as the elderly, children, singles, and ethnic groups who may have more specialized or particular activity patterns.

Integration

The planning and design of public open space cannot be isolated from other aspects of urban life. The opportunity to enjoy open spaces must be integral to our everyday activities. Public parks have often suffered from non-use and neglect because they are not located where the people are. Instead we have to make a special effort to pause from our daily activities and seek a place aside from the mainstream of life. This may be characterized as a 'retreat' approach to planning open space that has limited use and appeal in the city especially in the Core and Waterfront areas. Instead our efforts as planners should be directed towards the improvement of those open spaces that give form and identity to the urban environment: setbacks, landscaped grounds, small parks, plazas, urban squares, ceremonial spaces, parking lots, and school grounds. These spaces may become integrated and unified in both a visual and functional capacity through the development of linkages. In this way streets and sidewalks become one of the most important open space linkages available to the planner. This approach attempts to plan open space from the large urban perspective that seeks to utilize all available lands towards the achievement of the open space objectives discussed throughout this chapter.

CHAPTER V: THE NON-USE OF PRESENT RESOURCES

NON-USE OF PRESENT RESOURCES

INTRODUCTION

Few studies have been conducted by municipal governments regarding the non-use of their public facilities. It is becoming increasingly clear, even to the most casual observer, that some open space resources are not being utilized as originally envisioned. Some wastage of land occurs due to a lack of foresight in design: left-over pieces of land are rendered functionally void of use due to their size, location and/or configuration. The non-use of lands that are intended to serve the public for recreation, however, requires a thoroughreview of the contributing factors, and the implications for park planning in the future. The following discussion on the non-use of urban parks and open space is intended to serve as an introduction and short summary of the main thoughts eloquently presented in the articles "Non-use of Neighbourhoods Parks" by Seymour Gold, and "The Uses of Neighbourhood Parks" by Jane Jacobs.(1)

SUMMARY OF ARTICLES

Gold identifies three categories of major causes of non-use as follows:

1. behavioural: those who do not use the park may have some signficant physical, mental or cultural differences from those who do;

2. environmental: the park's image and facilities do not coincide with the leisure preferences and satisfactions of the majority of potential users; and

3. institutional: some physical environmental, or institutional restraints discourage use.

Gold discusses the most significant factors within each category such as convenient access, site characteristics, goal differences, personal safety, user orientation and social restraints. In conclusion, he asserts that a new approach is needed in the planning of neighbourhood parks. Gold suggests several areas for continued research and action in the development of a park system that is responsive to the needs of the local population.

Jane Jacob's article begins by dispelling two myths about the functions of neighbourhood parks: (1) parks are the 'lungs' of the city and (2) parks serve as the economic stabilizers or anchors of the community. She stresses throughout, that parks are drastically affected by the uses imposed by the neighbourhoods. Parks she identifies as the 'worst problem' are those which are located "... where people do not pass by and likely never will".(3) Successful parks have little competition, in her opinion, so that park use is intensified and not dispersed over too large an area. Four design elements common to numerous parks, Jacobs has observed to be successful are presented: intricacy, centering, sun and enclosure. Finally, Jacobs suggests that it may be worthwhile for planners to liken neighbourhood parks to department stores in assessing the attractions or ´demand goods´ it offers the local community. She notes that swimming, music concerts, fishing, and ice-skating, for example, are popular demand goods that should be exploited by the municipality.

COMMENTS

The potential causes of non-use of parks and open spaces are numerous. Any particular space either privately or publicly-owned may suffer from one or more deterrrents to use. Historically, the parks of the City of Toronto have been poorly located relative to potential users. Secondly, citizens of Toronto have experienced difficulty reaching many of the City´s open space resources such as the Toronto Islands, the Waterfront, Queen´s Park, University Avenue, grounds of Osgoode Hall, for example, by barriers of varying strengths both real and implied. Accessibility to open space is the key factor that influences the use of parkland resources. It may be blocked by adjacent private developments that dominate and cloud the´public´ spirit of the space, arterial roads, lack of public transit to the site, poor design or lack of community participation and therefore predictably, lack of support for use of the imposed facility. Both Gold and Jacobs define success in terms of user satisfaction and participation. No one parkland design, (with the pre-requisite six benches, two garbage cans, and one drinking fountain), can meet the needs of all people all the time. Instead the tendency is to run the risk of satisfying no one.

RECOMMENDATIONS

Non-use of parks in the City of Toronto should be evaluated systemtically to locate ´problem parks´ as Jacobs describes. Each site should then be subject to an assessment based on a review of the five criteria used to determine the adequacy and appropriateness of parks in the Central Core in the Official Plan.(4) Although somewhat subjective, the use of these five criteria (particularly (e) the degree of public involvement in their design) will provide a framework for the initial stages of an evaluation. These criteria should be applied universally to the development of public open space throughout the City.

What is needed is a change in the perception of public open space that softens and blurrs ownership boundary lines. When evaluating development proposals planners should consider design alternatives to avoid the creation of isolated parcels of land that are devoid of activity, difficult to maintain and end up becoming public eyesores. Private landowners may be persuaded to remove unnecessary barriers such as ornamental fencing and hedging that block access to lands that could become successful public open spaces, if permission were granted.

The introduction of ancillary privately-funded activities into public parks would also help to blur the public/private dichotomy. The most suitable activities should in some way assist in the participants´ enjoyment of the park such as bicycle rentals, cafes, garden allotments, live theatre, concerts, craft displays, sport demonstrations and sales, etc. Private groups may wish to rent space temporarily for an athletic or cultural event. These types of activities would enrich the park experience and provide services to the public that are normally beyond the mandate of the municipality.

FOOTNOTES

1. Both these articles are available in the library of the City of Toronto Planning and Development Department.
2. Gold, S. "Non-use of Neighbourhood Parks", p.372.
3. Jacobs, J. "The Use of Neighbourhood Parks", p.55.
4. City of Toronto. Official Plan Part One 1981, p.84.

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CHAPTER VI: NEW APPROACHES IN THE PROVISION OF PUBLIC OPEN SPACE: OPPORTUNITIES IN THE CORE AND WATERFRONT AREAS

NEW APPROACHES IN THE PROVISION OF PUBLIC OPEN SPACE: OPPORTUNITIES IN THE CORE AND WATERFRONT AREAS

INTRODUCTION

The wide range of opportunities to provide public open space in an urban community are rarely fully exploited by a municipality. Although the lack of this resource is frequently discussed, efforts to alleviate the problem often fail to achieve significant change. What is needed is for planners to broaden their perception of the role that public open space plays in our society, from a narrow equipment dependent recreational activity, to one which can take advantage of the variety of opportunities possible in a densely built and populated urban environment. This final section in Volume One is intended to encourage planners and designers to regard open space as a valuable resource that can, with imagination and co-operation, become multi-functional in an urban community. The successful use of vacant parcels of land and parking lots as temporary parks is discussed, as well as the recyling of other under-utilized resources, such as cemeteries, golf courses, and hydro right-of-ways. An inventory of open space opportunities in the City of Toronto is provided, accompanied by an extensive computer printout of suitable parcels of land in the Core and Waterfront areas.

TOWARDS A NEW APPROACH

The planning and design of public open space is an increasingly complex task in an ever growing and changing urban environment. Planners have recently begun to re-evaluate their approach towards the fulfilment of their community's open space objectives.

Traditionally, the planning of public open space has largely been confined to those lands owned by the municipal corporation that were identified as public parkland. In this way the full responsibility for the acquisition, management and maintenance of the properties were borne by the taxpayers of the municipality. In recent years, many municipalities have fallen behind in their capacity to continue to meet the demand for public open space. Planners now face a multiplicity of problems such as:

1. escalating land values and resulting shortage of accessible and attractive public open spaces coupled with,
2. the phenomena of under-utilization or avoidance of some existing land resources that are costly to maintain accompanied in other areas by competition with the private market through the duplication of services and facilities.

To adequately respond to meet the challenges of this present situation, it may be necessary to adopt a much more flexible and adaptable planning approach. In this light it is advantageous to interpret public open space as broadly as possible to include all lands that are physically accessible to the public, regardless of ownership. Given this new perspective, the range of opportunities to provide public open space increases dramatically, limited only by the constrains of custom and the bounds of the imagination. Conceivably, all lands whether privately or publicly owned, developed or vacant, hold potential for public use and enjoyment. The first step towards increasing the amount and capacity of land to achieve public open space objectives is to assess the suitability of land, unheeded by circumstance or the presence of financial, social, physical or culturally-derived barriers to public accessibility. Once lands, developments, or parts thereof, have been identified as desirable, then ways to break down these barriers may be found.

IDENTIFYING THE POTENTIAL

The intent of this section is to stimulate creativitiy in the search for public open space opportunities in the Core and Waterfront areas of the city. There are several ways planners can identify sites with potential. Field surveys are perhaps the best technique for planners and researchers to assess the opportunities available in a community. Photographing sites and informally observing people's use of space can yield a wealth of information but both are time consuming activities. Planners should also compare the experiences and activities of other municipalities in their search for new or refined ways to solve old problems. The leading scholarly journals in the planning and design field should also be reviewed regularly. Of special significance to the planners of the City of Toronto is the excellent research resource potential of the computerized Land Use and Proposed Development Information System (LUPDIS) which provides extensive information on the built form of the city. As part of the research for this resource book, this system was used to identify properties with potential in the Core and Waterfront areas, such as outdoor parking at grade, pedestrian walkways, vacant land, bodies of water, and institutional land uses. In total 311 sites were identified encompassing approximately 1 360 680 square metres. The computer printouts of this data are available in the library of the Planning and Development Department. Figure 3 provides an inventory of public open space opportunities available in many urban communities. Some hold more potential than others but all are feasible options that should be considered when possible. Several of these opportunities are discussed below:

Joint School-Community Use of Facilities

Declining enrolments have prompted the increased use of school classrooms and facilities by the community. Now the grounds of many schools are being modified for public use by both children and adults all year round. Chain-link fences and concrete have been replaced and softened by the addition of park benches, fountains and landscaping. In this way, the school facility functions more fully as a community resource and make a sensible re-use of redundant public land.

Figure 3: An Inventory of Public Open Space Opportunities

Municipal parkland
Parkland dedication
Cluster subdivisions
Joint school-community use of facilities*
Street conversion to mall or park
Unused road allowances

Legal non-conforming land uses
Outdoor parking at grade*
Ravines/Hazard lands
Land use controls
Regional and Provincial parks and lands
Private open space*

Scenic vistas
Landfill
Open space surrounding institutional buildings*
Federal or Provincial archaeological or historic sites
Bodies of water
Utility right-of-ways
Cemetery park conversion*

Vacant lots*
Gifts and bequeaths of land
Parks located near the municipal boundary
Acquisition or lease of private land
Golf courses
Conservation Authority lands

Abandoned land
Air rights
Underground spaces
Roof tops
Recycling of land
Joint public-private venture

Streets and sidewalks*
Discarded transportation right-of-way
Alleys and laneways

* - discussed in text

Outdoor Parking at Grade

The computer search identified approximately 480 sites in the Core and Waterfront areas that, as of October, 1983, were used for outdoor parking at grade. In the future this type of parking facility will probably be phased out as they are moved below and above grade. Until this time, outdoor parking at grade remains a poor use of space in the downtown areas which can degrade the aesthetic quality of the environment. Bill 159 requires that all newly constructed parking lots created after August, 1983 must be landscaped. This is an important chance to not only screen out much of the visible and audible pollution of the vehicles, but also to provide sitting-out areas in conjunction with the landscaping design. An excellent precedent has been established on Bloor Street near St. George where seating has been provided adjacent to a heavily used pedestrian street. The design in this case increases the width of the sidewalk to relieve congestion along this portion of the street. Paul Hogan describes in "Double-Duty for Parking Lots" how simply parking lots can be transformed into temporary playgrounds and parks using easily assembled and portable equipment.

Vacant Lots

By-Law NO. 410-74 requires that all vacant parcels of land be landscaped and enclosed. Often times these small parcels of land are located in areas of need where a small vest-pocket park would be utilized and enjoyed while the land waited for development.

The City of Winnipeg has experimented with this idea in the downtown area with success. There the concept known as ´Port-A-Park´ was based upon the utilization of portable, easy to assemble parts much like the equipment suggested by Hogan in ´Double-Duty for Parking Lots´. The City of Winnipeg designed the park to contain several pedestrian amenities such as tables, benches, planters, fountains, newspaper containers, pedestrian signals, and information signs. The City of Toronto may wish to experiment with this concept by negotiating a short-term lease with the private landowner to turn vacant land into a temporary park. Since the equipment could be easily moved, this may be a relatively inexpensive way to test community response to potential parkland locations before a site is purchased or leased on a long term basis. Of course, the planner should make every effort to engage the local community in decisions regarding the establishment of parks in their neighbourhood, especially in the re-use of vacant lots where the confines of space provide an interesting design challenge.

Private Open Space

One should not overlook the open space opportunities provided by the private sector. Seymour Gold suggests that the entire city should be thought of as a recreation place.(1) In this way the recreational potential of restaurants, hotels, bowling alleys, shopping malls, tennis clubs, flea markets, and private plazas can be integrated with public resources. These opportunities create a diversity of recreational experiences that are beyond the mandate or capacity of the local government to surpass. Hotel complexes, for example, all have excellent recreational facilities such as swimming pools, gyms, restaurants, and lounge areas that welcome members of the public. The rates charged for use of the health club facilities are surprisingly low in some hotels and are not heavily used.(2) Planners should be aware of the location and relative accessibility of similar facilities to avoid duplication of services and unnecessary competition with the private sector. It may be possible to arrange for free time for the public in private swimming pools and gyms, etc. by some arrangement between the City and the owner. Shopping trips and eating in restaurants and outdoor cafes are other important recreational activities that are provided by the private sector. Such attractive open space opportunities should also be considered part of an overall open space network.

Open Space Surrounding Institutional Buildings

Any inventory of public open space opportunities in the downtown area should not ignore the many acres of landscaped grounds of the various public and quasi-public buildings such as hospitals, educational and religious institutions, and government offices scattered throughout. These lands are essentially public lands since the institutions are supported in large part by public funds. Religious institutions, specially, have enjoyed a favourable tax status in Canada for many years so they should be encouraged to share their land holdings with the community. Several churches have already offered the use of their premises for this purpose. The extensive grounds of St. James Cathedral, for example, are presently managed by the Department of Parks and Recreation as public parkland. This site has since become one of the most beautiful and treasured parks in downtown Toronto with the Victorian flower garden and parkland providing an elegant setting for the display of cathedral architecture. It would not be difficult to increase the amount of public open space in this way since there are many instances ready for public use and enjoyment now. All that is needed is to make some welcoming gestures to the public by removing obstructive fencing and hedging and providing seating and other amenities such as fountains, noon-hour concerts, chess boards, picnic tables, etc. The introduction of these amenities would increase the use of lands that presently serve only an ornamental function. The costs of managing properties such as these are relatively insignificant compared with the costs and effort involved in acquiring sites in ʻas isʼ condition and then transforming them into public parkland.

Cemetery Park Conversion

Cemetery land is an open space resource of increasing importance to the general public. Toronto, in particular, is fortunate to have preserved so many large and historic burial grounds. As the city expanded and slowly enveloped these once suburban sites such as the Mount Pleasant and Necropolis cemeteries, they have been able to resist pressure to sub-divide and develop portions of their holdings. The use of cemeteries for pleasure outings is not new. Wright notes that particularly in 1860's walking and picnics in cemeteries was a popular pastime frequently mentioned in the Toronto Globe. He suggests that it was this observed interest in cemeteries as recreational areas that inspired the early supporters of public gardens and parks.(3) Modern cemetery managers have generally responded favourably to the adaption of their lands to accommodate recreational activities. Mount Pleasant Cemetery has posted visitor maps of the paths and site facilities throughout to make strollers, bicyclists, and joggers welcome. The cemetary also provides information on the many species of trees planted on the grounds. It functions informally as an aboretum for students in Forestry at the University of Toronto. Some have also experimented with placing commemorative plaques laid flush with the ground to reduce the sombre and uninviting presence of the large upright tombstones. Eventually, cemeteries will lose much of their sanctity as more people discover these oases of peace and greenery available close by in the city.

Streets and Sidewalks

Streets and sidewalks comprise the most extensive network of public open space available within a municipality. This resource has, in the past, been ignored and neglected by planners who failed to see the potential of this system of interconnecting spaces. Streets and particularly sidewalks are important generators of public life and help to enrich and sustain the activities of neighbouring land uses. Recently, the public realm of the street has experienced some extra consideration in design and landscaping that have attracted the private sector to similarly invest to enhance their properties the configuration of streets and sidewalks can be changed over times as needed. Street closings on a temporary and/or permanent basis can create pedestrian mall areas that would give heavily pedestrian-oriented areas such as Yorkville, Chinatown, Eaton Centre and Kensington Market some breathing room. Sidewalk widths should be varied throughout the city to reflect the intensity of pedestrian activity and ancillary street furniture. The spatial requirements necessary to comfortably accommodate urban street life such as outdoor cafes, artisan displays, vendors and spontaneous gatherings should also be considered.

In his writings, Seymour Gold offers planners many more suggestions on how to create public open space:

> "We need new ways to think about leisure in cities. For example, we have traditionally considered only public land and water for outdoor recreation, but new approaches to design, management and program offer these exciting possibilities:
>
>> Air rights - using space over public and private urban development for leisure opportunities. We can deck over freeways, railroad yards, warehouses and parking lots for recreational use.

> Underground spaces - developing underground malls, plazas and pathways that have multi-use recreational potentials.
>
> Recycling existing parks - renewing existing parks that no longer meet the need of users to include a major emphasis on adventure playgrounds, community gardens and water or energy conserving landscapes.
>
> Reuse of existing buildings - converting abandoned or obsolete buildings to public or private recreational uses, e.g., theatres, factories, or supermarkets.
>
> Self-generated parks - encouraging residents to help design, develop and maintain neighbourhood parks.
>
> Rooftop spaces - making intensive use of rooftops for public and private recreational opportunities.
>
> Recreational retailing - combining amusement parks with shopping centres.
>
> Urban campgrounds - providing campgrounds in urban parks for tourists.
>
> High-rise recreation structures - building or redeveloping high rise structures for recreational use, e.g., tennis clubs, hostels or play areas.
>
> Pneumatic structures - providing large air-supported structures for special events or temporary facilities in changing neighbourhoods."(4)

By going beyond the more traditional planning approaches in this way, Gold and other researchers in this field have been able to imagine new possibilities for the creative use of land and the development of entirely new forms of public open space.

CONCLUSIONS

Municipalities are limited in their capacity to acquire land for public open space purposes at market value. This fact has become painfully clear in these recent years of inflation and budgetary constraint. The intense competition for land in the Core area of the city in particular, has caused planners to re-evaluate our collective use of urban land and to search for inexpensive ways to supplement existing public resources. As this chapter has described, it is possible to increase the amount and variety of public open spaces within the confines of a densely-built urban environment. To achieve this objective, it is necessary for planners to adopt a more flexible and creative approach to the planning of public open space. Firstly, it is important to mentally remove the single-use labels that restrict the shared use of land or the ability for open space to serve a variety of functions. Secondly, planners must be aware of the totality of open space opportunities, both private and publicly-derived, that are available to the public. This is necessary to avoid duplication of services, but also desirable to foster the co-operation between the public and the private sectors in the creation of new and exciting open spaces. In this way, it has been possible for the Borough of Etobicoke to create small vest-pocket parks on vacant land and to temporarily increase parkland in industrial areas by utilizing adjacent or nearby parking lots on weekends and evenings.(5) Similarly, the City of Burlington has proposed the creation of an extensive bike/walkway system throughout the city by linking up potentital open space resources such as hydro right-of-ways, vacant lands, schools and community centres, historic sites, natural areas, and commercial and retail areas.(6) The City of Toronto has itself been a leader in seeking the support of the private sector and voluntary groups in the development of public open spaces that have added greatly to the quality of life enjoyed in this city. This is a planning trend of the future that will continue to flourish and achieve results. Today, open space planners in the City face the dual challenge of providing public open space that can 'work' within the physical dimensions of the Core area, and the relative freedom offered by the future development of the Railway Lands and obsolete industrial sites along the waterfront. This is a unique opportunity to simultaneously plan on the 'micro' and 'macro' scale that few cities have ever enjoyed.

FOOTNOTES

1. Gold, S. "Urban Open Space in the Year 2000" in Ekistics, p. 450.

2. The Westin Hotel on Richmond Street in downtown Toronto is an example of a low-cost privately-funded facility available to members of the general public.

3. Wright, J. Urban Parks in Ontario, Part I: Origins to 1860. p.47.

4. Gold, S. "Urban Open Space in the Year 2000" in Ekistics, p.450.

5. Burton, T., J.B. Ellis, and P.M. Homenuck. "Guidelines for Urban Open Space Planning", p.23.

6. Granger, W.B. "Open Space Linkages: Identifying Our 'Hidden' Recreational Resource". in Recreation Canada. p.9.

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APPENDICES

APPENDIX A

CHRONOLOGY OF IMPORTANT EVENTS AND DOCUMENTS IN THE PLANNING AND DESIGN OF PUBLIC OPEN SPACE IN THE CITY OF TORONTO (1788-1983)

1788	Introduction of Toronto's first formal plan. Captain Gother Mann's plan of Toronto harbour included a one mile square divided into 121 lots with six lots set aside for public uses; land between the town and the lake to be held in reserve; and a common surrounding the town to be used for future expansions. Bordering the common were township lots called 'town parks' which were granted to land holders in the town.
1793	Aiken survey of the new town of York begun. A new base line was drawn from the border of Scarborough township to the Humber River; and a rigid grid pattern was imposed upon the terrain. The first town plan was comprised of 10 blocks of 4 acres each.
1797	The new town was laid out south of Queen Street between Yonge and Peter Streets. Between the old and the new town, five blocks of six acres were set aside for public uses such as a market, church, school, hospital and a jail. It was planned to locate the public buildings between the old and new sections of the town. The new town plan made provision for some large squares and blocks of greater dimensions, creating an open appearance.
1818	The Crown granted J.B. Robinson and other leading York citizens about 38 acres of land between the top of the bank and the front of the town to be set aside as a public walk or mall Trustees were charged to hold the land for the benefit of the inhabitants of the Town of York. If used for other purposes, the land would revert back to the Crown. It was not felt necessary to reserve parkland within the built-up area since the early Town of York was elongated in shape and its inhabitants could easily reach open space either at the waterfront to the south or on the farm and forest land to the immediate north.
1819	A large tract of the government reserves was granted as a hospital reserve, while other sections of this common land were set aside for cemeteries and a park.

1830's The rest of the government land, (the Garrison Reserve to the west of the new town) was sold by the government at high prices. West of Niagara Street much of the Reserve was used for non-residential facilities such as military barracks, a cattle market, hospital, reformatory, exhibition grounds and a park. The City granted the railway companies the use of the city-owned land for rights-of-way and terminal facilities. Thus the western portion of the Reserve was gradually converted to a variety of public and semi-public uses. Larger residential development north of Queen Street became necessary. Park lots became sub-divided with their little, if any government intervention in this process. Streets were laid out in a strong north-south orientation with poor east-west connections between sub-divisions. Some park-lot owners left their land for public buildings or parks; for instance:

- 1828 Osgoode Hall
- Grange
- 1857 - Allan Gardens, Moss Park
- Alexandra Park
- Bellevue Square

Some of the park-lot estates became schools, hospitals or institutions of other types

1848 A lease for 999 years of 287 acres in the reserve - known then as Ordnance Land - was granted to Toronto by the Crown at an annual rent of one penny. The land was to be laid out as a park for the purposes of "pleasure, recreation and amusement to the inhabitants of the City of Toronto and with a view to the ornament".

1850's Two years later, the lease was withdrawn by the British War Office.

The unsold ordnance lands totalling a little over 500 acres were turned over to the Province as part of a widespread transfer.

The City surrendered its lease of 287 acres and received two parcels of land instead:

	- 22 1/2 acres for use as a public park and 32 1/2 acres (20 of which to be used for an exhibition)
	The City awoke to the realization that it had done almost nothing to preserve ground for parks in the area in which it did have control
	The Governor General was sent a memorial from the City pointing out that of the 500 acres once in the possession of the government, only four small parcels remained.
	The threat of losing the open front to the railway companies was causing concern. Pressure to develop the Esplanade lands was increasing. Finally, the City settled on a plan that included a twelve-metre right-of-way for the Grand Trunk and public open space. The contract was cancelled soon after. Separation of tracks and public space has never been clearly defined and completed as envisioned.
1870's	Complete domination of the waterfront by the railways emerged at this time.
1880's	Growing concern for the provision of parks and open space. Areas of open space used before were being quickly sub-divided and built-upon.
1897	The Toronto Guild of Civic Art (later called the Civic Guild) was formed composed of private citizens interested in the improvement and beautification of Toronto.
1909	The Guild had a membership of nearly 400 and gained considerable political influence. It published a "Report on a Comprehensive Plan for Systematic Civic Improvements in Toronto". Th report stressed need for parks, open space, diagonal streets to produce visual relief from the grid system, etc. Its major emphasis was on the creation of parks and playgrounds, and to preserve the remaining ravines, river valleys and shorelines to provide a parkway system continuous throughout the city. It proposed the creation of 13 new parks and 28 playgrounds.
	The Civic Improvement Committee was created by City Council in February 1909.
May 4,1912	Passing of the City and Suburbs Plans Act by the Provincial Legislature. This Act which was later superseded by the Planning and Development Act gave

the City some measure of control over the subdivision of land into building lots

1912 Harbour Commissioner's Plan presented. The plan proposed extensive infilling and development of Toronto's ten miles of waterfront andproposed the creation of a park system, with inner lagoons, beaches, open space, walkways etc. Also proposed was the creation of a new port facility behind the eastern sea wall Very little of this plan was implemented largely due to the beginning of the first world war. The City Surveyor became responsible for planning. Civic guild applied pressure on public officials for the adoption of municipal standards for heights, set-backs, street widths and parks.

1929 Report of the Advisory City Planning Commission with Recommendations for the Improvement of the Central Business Section of the City of Toronto published.

The report identified a need for street improvements in the business district. It lamented the lack of open space and increasing street congestion; and recommended a series of street extensions and improvements to be carried out over a period of 15 years.

Except for University Avenue improvements, few of the proposals were acted upon due to the financial uncertainty created by the Stock Market crash later that year and the ensuing depression years.

1930's The development of planning came to a standstill.

The Surveyor's Office was expanded and became the Department of City Planning and Surveying and continued as such until 1954. Planning at this time was primarily concerned with traffic management problems.

June 1,1942 Enactment of By-law No. 15761 by the Council of the City of Toronto to provide for the establishment of a City Planning Board and define its duties and powers. It consisted of eight members appointed by the City Council, assisted by an Advisory Technical Committee experienced in City planning.

Dec.3,1943 Master Plan for the City of Toronto and Environs was submitted by the City Planning Board of Toronto

This plan was intended to govern the future growth and development of the City during the next thirty years. The major conclusions of the Plan were:

(1) that the main streets are mean in appearance and untidy;

(2) that the whole area is aesthetically unattractive

(3) that there are few, if any, suitable sites for the location and proper display of an important building or for the proper grouping of public and semi-public institutions; and

(4) that there are no open spaces other than untidy parking lots.

It recommended:

(1) a site for the construction of a large civic square

(2) that all poles and overhanging signs be removed from the public highways

(3) the planting of trees alongside streets

(4) the creation of a committee composed of "distinguished, public-spirited" architects to safeguard the appearance of the streets and buildings through a system of architectural control.

With regard to parks and recreation the Plan also made the following comments:

(1) That outside of the City limits planned attempts have been made to set aside land to supply the recreational demands of future population;

(2) That the City itself is very deficient in accordance with modern standards; and

(3) That the Metropolitan Area possesses a priceless heritage in the ravines of the Don and Humber and their tributaries which skirt much of the outer boundary of the built-up area

1946 The Planning Act was passed by the Ontario legislature. This act remains the basic legal instrument for modern planning in Ontario.. Important Provisions of the Act included the right of municipalities to designate land for O.P. purposes and allowed them increased control of subdivision.

1947 Subdivision control powers by municipal councils were amended to allow for the designation of an area of subdivision control anywhere within each municipality's jurisdiction.

The minister was given power to require as a condition of approval of the subdivision that an amount of land, not exceeding 5% of the total, be conveyed to the municipality for public purposes. In lieu the minister might permit 5% of the value of the land included in the subdivision to be paid to the municipality.

1949 The first official plan for the City of Toronto was issued. This was the first plan to have any serious legal support. It placed emphasis on single-use buildings and zoning categories and anticipated high growth levels and suburban sprawl.

The 1949 Plan cited the urgent need for the City to make specific civic improvements to attract tourists and help make the city a more pleasant place for business. It suggested improving the appearance of the City's streets by the modernization and standardization of street lighting, street name signs and the elimination of unsightly utility poles.

It also recognized that the City fell short in its provision of local recreational facilities in comparison with the standards adopted by the American Recreational Association. Poor distribution of recreational facilities was noted as well. It identified local or neighbourhood needs; district needs and city-wide activities using a preliminary classification system for the first time.

1953 A comprehensive zoning by-law was prepared to elaborate on the general land use regulations of the new plan, and allowed massive construction throughout the City's core with little planning control. The zoning by-law designated far more high density acreage than it was thought downtown Toronto might conceivably need and it encouraged developers to overbuild.

1955 A General Report and Recommendations concerning the Parks and Recreation System of the City of Toronto by G.T. Bell, Commissioner of Parks and Recreation was published October 13, 1955 and received by the Toronto Planning Board.

This report made a survey of the parks in Toronto and listed each by legal status. It discussed the need for the rehabilitation of the parks system and the acquisition of more land suitable for park development.

Also, it referred to the frustrations of the past including the indiscriminate removal of trees on streets by staff of the Public Works Department, lack of planning in regard to park maintenance, disfigurement of trees when new street lighting was installed and the use of park land for unintended purposes.

This report recommended that the City apply for necessary legislation to allow by-laws designating lands within the city as being required for park purposes.

1956 City of Toronto, Urban Renewal Study

This report is the origin of standards used for many years by the City of Toronto in its parks acquisition program. It discussed other standards used in Great Britain and the United States, and

provided definitions of neighbourhoods, district and major/special use parks. It calculated a total neighbourhood parkland deficiency of about 370 acres in the City of Toronto. "Tentative" park land proposals made by the Study:

	Acres/1000 Proposed	Existing
Metropolitan, "Major", and Special Use parks	3.0	2.5
District Parks	.5	.3
Neighbourhood Parks	.9	.4
Other Parks in Industrial and Commercial Areas	.2	.1
	4.6	3.3

October 1956 City of Toronto Planning Board Parks and Open Space Report

The report dealt with the need for neighbourhood and district parks in the City. It defined the residential areas of park deficiency and estimated the total amount of open space required to relieve this deficiency. It adopted the standard of 4.6 acres/1000 people proposed in the Renewal Study a realistic standard for -the City of Toronto to achieve by a vigorous program of parks acquisition over the coming years". The report recommended that a general plan for the acquisition of parklands be incorporated into the O.P. of the City of Toronto, and various criteria were presented.The recreational needs of the downtown daytime population were not considered although the lack of open space in the downtown was commented upon. Finding new ways to protect open space outside of acquisition were recognized as an important research area for future studies.

1958 City Council approved in principle the establishment of a system of 62 small parkettes throughout the City as sitting-out areas for passive use by adults and small children.

The intention was to space these parkettes so that all citizens of the City would be within one quarter of a mile walking distance from a green sitting-out area.

1959 City of Toronto Planning Board The Changing City - A Forecast of the Planning Issues for the City of Toronto, 1956-1980

The report identified an "urgent need" for about 300 acres of neighbourhood and district parks. It mapped priority areas in the city for new local parks and established targets for park acquisition, and noted details of the City's parkland expansion program implemented since 1955. It based assessment of costs on an anticipated process of providing open space by buying up and demolishing houses. The report firmly supported the City Council adopted principle that any parkland lost must be replaced by an equal amount of land of comparable quality.

Recognizing the ambitious nature of the City's open space acquisition program, the authors suggested alternative ways to lessen the deficiency:

(1) preservation of ravine lands by agreements with landowners rather than through purchases alone;

(2) create and promote an awareness among developers and private property owners of their role and responsibility in the provision of open space.

1960's The use of the zoning by-law evolved into a form of development control. Specific by-law amendments became a kind of individual development permit.

June 1960 City of Toronto Planning Board Natural Parklands in Toronto

This report noted the lack of a City policy on the preservation and use of natural parkland. It reported that the City has lost 840 acres of the original 1900 acres of ravine land through the process of infilling, but saw an opportunity to maintain a continuous environment of natural green spaces in the heart of the built-up City. It stressed the need for a clear policy on the recreational use of ravine and valley areas by proposing the establishment of seven natural parkland reserves.

It estimated that in these proposed reserves the City contains a potential natural parkland network of 438 acres, of which 186.5 are private, 48.5 are in road allowances, easements, etc. and 203 acres are public open space.

Feb. 1961 City of Toronto Planning Board Report on Set-Back Regulations for Commercial and Industrial Buildings

Essentially recommended the introduction of regulations governing the set-back and spacing of commercial and industrial buildings into the zoning by-law, however standards chosen were meant only to ensure a minimum amount of protection in regard to light, air and views. They were left flexible to encourage "fine design". It identified open spaces and three dimensional concepts relating to buildings and their relationship to open space as two important elements found lacking in the downtown area of Toronto.

The report recommended that the Planning Department make a study of a bonus system for encouraging the provision of open spaces and set-backs of buildings.

Jan. 1962 City of Toronto Planning Board Downtown Appraisal and Plan Draft Report on Design Control

This was a detailed discussion of methods and problems of aesthetic control. The authors viewed the essence of civic design as "the relationship of parts to create an efficient, significant whole", and discussed the use of zoning by-laws to control aesthetics and design in Toronto. It offered several reasons why these "design control" by-laws were deficient; suggesting the notion of "total design" as a solution to the special problems identified in the Downtown area.

Feb. 1962 Downtown Planning District Appraisal Preliminary 1980 Plans

The Plan identified the lack of open spaces in the built-up area as one of the major deficiencies of the present day downtown and called this one of the City's most difficult problems to overcome. It proposed that the 1963 Plan introduce a bonus system as a way to achieve open space and the design objectives in the Downtown Plan.

1963 City of Planning Board published a Plan for Downtown Toronto

This report while not proposing specific legislation, was important as a source for much of the proposals used in the 1969 Official Plan adopted by City Council. It foresaw tremendous growth in the Downtown area and the goal of the plan was to direct this growth in ways which would improve the appearance and bring prestige to the City. The traditional grid pattern of the Downtown was thought by planners to be boring, restrictive to the public spirit and the efficient movement of traffic. The plan lamented the lack of open space and visual interest in the inner urban environment. It favoured the separation of pedestrians and vehicles by creating new streets underground leaving the grade level street open for unrestricted pedestrian use. The plan foresaw the development of open spaces around single-use free-standing towers that would result from anticipated large land assembly projects.

May, 1965 City of Toronto Planning Board published Memoranda on Official Plan Review

These were a series of memoranda discussing the major issues necessary in the preparation of a complete revision of the Official Plan of the City of Toronto. The sixth memorandum discussed the design and appearance of the City. Several design objectives related to city structure, natural features and local area were presented; encouraging the promotion of complementary pedestrian walkways, malls, parks, landscaped areas and plazas.

Nov. 1967 Tentative Proposals for the Reform of Ontario law Relating to Community Planning and Land Use Controls prepared by J.B. Milner:

The report focussed on the weaknesses of the law in Ontario in the regulation of private development and proposed to clarify the process of planning and the legal effect of official plans. It also suggested the need for more particular land use control regulations.

1968 Six cities in Ontario submitted private bills before the Ontario Legislature asking for amendments to the City Acts that would give these cities more power to control development through by-law amendment.

These bills were withdrawn when the Minister of Municipal Affairs assured them that the Ontario Law Reform Commission had begun a study of planning and development control legislation and their specific concerns would be addressed by the researchers

The 1968 Development Control Legislation was sought by the City of Toronto for the purpose of providing Council with a method of development control in addition to its powers to pass restricted area by-laws under The Planning Act.

The proposed legislation would have allowed Council to review, in designated areas, individual applications with respect to the height, location and spacing of buildings as well vehicular and pedestrian access. The Planning Board's original recommendation to review the size and shape of the development was removed from the legislation after discussions with members of the Urban Development Institute. When the City's Bill Pr. 12 thus amended, came before the Private Bills Committee on March 27, 1969, the Committee voted to take no action, and the City's application was denied.

1969 New Part I Official Plan prepared by the Toronto City Planning Board and adopted by City Council:

The Official Plan placed most of its emphasis on efficiency in service provision and approaches to planning issues. It recommended the adoption of overall design concepts for selected centres of importance throughout the city based upon an understanding of local characteristics. It focussed on improvements of the general appearance of the City by the provision of squares, plazas and pedestrian walkways; and stressed achievement of high standards of design and maintenance in public utilities and street furniture. Its parks acquisition policy was based on minimum distance statistics from place of residence. The major park system was to be composed of regional parks (Metro responsibility) and systems of district and local parks.

A generalized City Plan Map designated certain areas as open space, and these sites were intended to be purchased in the future. Areas designated as open space were to be used only as parks. The Official Plan of 1969 was highly controversial and few of its provisions were implemented.

1969 On Foot Downtown - joint report prepared by the Commissioner of Public Works, et al, City of Toronto

This report supports the development of underground pedestrian walkways due to observed congestion on sidewalks/intersections and perceived extreme fluctuations of climatic conditions. It noted that there was serious lack of open space and green areas in the downtown, and identified a need for "varied, distinctive open areas, particularly small ones, where people could meet, sit, eat and enjoy greenery and relative quiet and be aware of the changes in the seasons". The large formal open spaces that typically surround the new office developments were found unsatisfactory. Concern was expressed for the "canyon" effect of new high-rise development and the resulting loss of sunlight experienced by pedestrians.

An interesting mix of design principles are discussed. For instance: development of a system of intra-block routes, integration of public and private space, continuity of building design, climate control,open spaces, variety in the streetscape and design quality.

It noted an unresolved conflict between two issues:

(1) The desire to improve and enhance street life and create interesting small open spaces; and

(2) the encouragement and proliferation of new underground streets connecting large office developments

1969 Development Control: Some Less Tentative Proposals prepared by J.B. Milner, Ontario Law Reform Commission

The report reviewed inadequacies in the law of general zoning and discussed the concept of development control as being separate from general zoning. It suggested that development control functions most ideally as a permissive device to encourage good design solutions. Milner presented a total of eleven development control proposals. Most importantly, he suggested:

"1. Before a council is allowed to exercise any of the special powers of development control it must first define or designate the precise area or areas of its territory within which it considers that the regular zoning powers are insufficient and the new powers should be exercised.

and

2. The Planning Act should be amended to permit the regulation of land use in any by-law passed under Section 30, including the number and location of, and the direction of traffic on, access ramps between private land and the travelled portion of a public road; the grading of private land and the disposal of storm and waste water from the land; the supply and maintenance of private garbage vaults and central garbage collection; and the surfacing of parking areas.

1971 Publication of The Urban Landscape by the Conservation Council of Ontario. The authors summarized the purpose of their study as follows:

"(1) to identify the broad range of activities that make demands on open space;

(2) to identify potential open space, define its character and suggest how the resource can best fit the need; and

(3) to make recommendations for action, for putting the grey areas that dominate much of the

> Metropolitan area to more productive use, and thereby make them more visually attractive and functionally useful."

It was the first comprehensive study that examined all potentially useable open space in Metropolitan Toronto including parks, ravines, valley lands, waterfront, golf courses, cemeteries, institutions, public works property, railways, industry, roads and hydro property. The book includes a discussion of the potential of setbacks, streets and sidewalks, alleys and lanes, vacant lots and parking lots. Various open space opportunities are mapped and some detailed design suggestions to specific problems presented.

The authors lamented the apparent lack of commitment to the improvement of open space amenities by public officials; as evidenced by the fact that the City of Toronto's Parks and Recreation Committee had in 1970 the same budget for park acquisition as it did in 1956. They identified the need for co-ordinated leadership of both public and private interests towards the achievement of a common set of goals and objectives in the creation and management of urban open space.

1971 The Bureau of Municipal Research published the first of two open space studies: Urban Open Space: Luxury or Necessity?":

This report contains a very detailed discussion of the then current open space situation in Toronto and reasons why open space is important. Major conclusions of the report:

(1) The City of Toronto does not compare favourably with other Canadian cities in terms of the total amount of open space provided.

(2) Many areas of the City are very short of parkland.

(3) Park acquisition policies are unclear in the O.P. and some of the O.P. development and protection policies may lead to encroachments in the open space system.

(4) The former "open market only" acquisition policy and the low acquisition fund have militated against the implementation of a rational open space policy.

(5) Open space performs many different functions; nature and conservation, urban design, economic, social, retreat and outdoor recreation functions. No one type of open space could possibly serve all these functions.

Most Relevant Recommendations:

1. City of Toronto Official Plan, Part I policies regarding the acquisition of parkland should be clarified by an amendment to Part I or in an Official Plan Part II Statement on Open Space.

2. The Official Plan should be amended to tie development approval specifically to provision of adequate parkland. No development should be approved unless parkland proportionate to the additional population engendered by the development is provided.

3. The City should actively seek out parkland in areas presently deficient in parkland.

4. The City of Toronto Parks Acquisition fund should be substantially increased.

5. Metro Parks should join with the City to acquire and develop downtown open space.

6. Cities, generally, should recognize the importance of the various functions performed by open spaces, give a higher priority to open space, and provide a wide variety of open spaces within the cities to perform these functions.

1971 Publication of the Urban Open Space Study edited by Paul Wilkinson

This is a study of the actual and potential use and control of semi-public open space in the City of Toronto. Issues discussed include the Official Plan of the City of Toronto, recommendations for the revision of the municipal act, the Zoning By-law and its relation to open landscaped space.

In preparation of the Study a group of students conducted numerous surveys of park users to determine their likes and dislikes. The Study concluded that the main concern in the design of open spaces for public use must be the user.

Its major recommendations are:

1. That a much larger, more comprehensive open space study be undertaken by the City of Toronto and/or Metropolitan Toronto;
2. That the establishment of small open spaces for public use be encouraged;
3. That the open space needs of the day-time population of the inner city be considered;
4. That open spaces be designed with a view more toward function than form;
5. That existing institutionally-controlled open spaces be channelled into public use.

It includes sample formats for user survey questionnaires.

1971 Second bulletin issued by the Bureau of Municipal Research entitled, "Urban Open Space: Parks, People and Planning

The report dealt with the following questions:

1. What type of open space does a city need?
2. What implications does this have for the planning of open space? and
3. How can the necessary open space be obtained?

It discusses standards and user-behaviour, and resources and acquisition techniques. It concludes that there is lack of political will to reorder priorities and seek solutions.

Its recommendations are:

1. User-behaviour information should be adopted as a major basis for developing urban park standards and guiding urban park policy and planning.
2. The emphasis of the urban open space policy in the City of Toronto should be on the development and co-ordination of relatively small, local spaces located within one quarter mile walking distance of urban residents.

3. The City of Toronto Official Plan be amended to read that local parks be located within one quarter mile walking distance of all City residents.

4. The provincial government make urban open space planning grants available to municipalities.

1972 Amendment to The Planning Act of Ontario.

A five percent development dedication was made specifically for park, not public purposes.

The Federal Government announced the acquisition of waterfront land as a national park. The present 92 acre site is operated by the Harbourfront Corporation and includes a mix of private and public developments and open space.

Feb. 15,1973 City Council established the Core Area Task Force.

Feb.26,1973 Memorandum on Development Control Legislation received by the Committee on Buildings and Development from Dennis Barker, the Chief Planner and Executive Director

This report reviewed the historical background of forms of development control and presented draft legislation as the basis for an application by the City.

It addressed concerns raised by Mayor David Crombie and Alderman John Sewell, who both expressed a desire to expand the City's development control powers.

Feb.25,1973 Letter from Mayor Crombie to Chairman and Members of the Committee on Buildings and Development on subject of Development Control.

Criteria for development control suggested for consideration by the Mayor included:

(a) the impact on and compatability with surrounding uses;

(b) servicing requirements;

(c) density and density mix;

(d) the design of buildings including height and bulk;

(e) landscaping;

(f) distribution of buildings;

(g) relationship of buildings to public spaces (if any) within the project; and

(h) relationship to public transit facilities.

March 5,1973 City Council adopted the recommendations set out in Mayor Crombie's letter on Development control.

May 1973 *Subject to Approval* published by the Ontario Economic Council

This is a thorough review of municipal planning issues in Ontario.

Observations:

1. An inappropriate use of zoning as a development control device was noted.
2. Municipalities have attempted to achieve qualitative objectives with quantitative controls. The report terms this practice as "one of the major misfortunes of the past twenty years of planning in Ontario".

Recommendations

1. Subdivision Administration:

Municipalities should be permitted to require park dedications related to population, based on a flexible scale related to varying circumstances;

2. New Development Control Power:

The Minister, at his discretion, should be authorized to empower municipalities to exercise a new "development control" power in areas designated for growth or change in a proper municipal structure plan, and within the framework of policies laid down in an approved district plan.

Development control power should replace zoning and site plan agreements in such areas of growth and change and should cover matters normally regulated in these documents. Development control should consist of a statutory freeze on all development (broadly defined to include demolition, altering natural features, and tree removal, as well as building construction and alteration) with development permission granted by Council only after a case by case examination of proposals.

3. Site Plan Agreements

Municipalities should be enabled to enter into site plan agreements registerable against title, and municipalities should be empowered to require site plan agreements as a condition to the approval of planning applications.

4. Zoning Administration

Municipalities should be empowered to attach conditions to zoning amendments.

5. Acquiring parkland through subdivision control

Municipalities should be allowed to secure parkland in relation to population density rather than as a percentage of land area to be developed.

June 28,1973 City of Toronto Planning Board Report on the Use of Holding By-laws and the Desirability of Development Control Legislation released.

This report discussed the following issues:

(a) objectives of the proposed Development Control review process

(b) control features

(c) areas to be subject to Development Control

(d) Official Plan statement regarding development control

(e) new draft legislation based upon the 1968 Private Bill.

Dec.7,1973 A controversial 45 foot height By-law No. 348-73 was adopted by City Council. This by-law required that all developments proposed in excess of 45 feet in height or 40,000 square feet in floor area (20 feet in height or 20,000 square feet in floor area in the Central Waterfront area) be considered as applications for zoning amendments and therefore subject to public review.

Dec. 1973 The Province of Ontario passed Bill 264 which amended The Planning Act by adding a new section (35a) respecting development control. It allowed municipalities certain powers of development review on a site basis in general accordance with the recommendations of the Law Reform Commission and the Ontario Economic Council reports. The amendment did not give the City review control over the height or density of development.

1974 Core Area Task Force Report and Recommendations

A study of transportation and movement in the core area by twenty-five representatives of various community, business and residents groups. The task force expanded the scope of their study to include consideration of open space, development controls, energy, micro-climate, streetscape, city design, views and vistas.

Members of the task force expressed concern over the "serious lack of open space in the Core Area". They suggested several reasons for this fact: "lack of foresight in the past, high land values at present, and inadequate Zoning and Official Plan policies".

They made several recommendations to improve the design and environmental quality of the Core Area, and increase the amount of useable open space especially in park-deficient areas next to high density residential and non-residential development.

Relevant supplementary studies undertaken as a result of Task Force recommendations are:

(1) Non-Residential Open Space Study

The development of criteria for open space related to non-residential functions in the Core Area.

(2) Design Guidelines

The establishment of criteria for the form of development in the Inner Core Area, particularly the provision of public amenity within and around new development.

June 4,1974

Consultants' report Design Guidelines for the Core Area - On Building Downtown published and sent to Planning Board (Revised edition completed in September 1974)

The authors proposed design guidelines for the review of specific development proposals divided into four categories as follows:

(a) Downtown Pattern

(b) Public Realm

(c) Public Parts of the Private Realm

(d) Areas of Special Identity

This is an excellent resource book on sun and shade, wind and calm, noise and quietude, and micro climate guidelines. It includes a glossary of terms, listings of designated open and public spaces and case study materials.

July, 1974

Report on "Open Places in South Midtown" prepared by the City of Toronto Planning Board

This is a study of ways to reduce the discrepancy between the large population of South Midtown and its lack of open space and public amenities. It recommends that a public policy statement on open space be established to direct the review of new development in the area.

The information presented includes the following:

(a) past established positions and policies regarding public open space resources (development of standards used)

(b) maps of public and private opportunities for the creation of open space

(c) discussion of patterns, standards and design criteria

(d) micro climatic conditions in South Midtown

(e) implementation techniques

(f) definitions

(g) proposed changes in policy, legislation and development control

(h) additional proposals re: acquisition, tax incentives, negotiation, parking and vacant lot control, street allowances and the establishment of a working committee to implement the proposals of the study.

August 1974 Consultants' Study Criteria for Open Space Related to Non-Residential Functions in the Inner Core received by the Toronto Planning Board

The report discusses open space standards, definitions and the functions of open space. It identifies numerous behaviour settings in the inner core area and makes recommendations for each.

Oct. 1975 Proposals, Central Area Plan: Part I: General Plan published by the City of Toronto Planning Board

The study proposes revisions to the City's policies respecting the Central Area. It recommends amendments to the general policies contained in Part I of the Official Plan as it relates to the Central Area, and proposes some fundamental changes in policy from the old 1969 Official Plan.

Also proposed is the development of a basic system of local parks located within easy walking distance of residents and workers that provides space for both active and passive uses. All new developments would be required to contribute to supplementing the basic park system. The study establishes a set of guidelines and incentives for the design of buildings with regard to streetscapes, historical buildings, local microclimate, and the pedestrian environment.

It also introduces a number of new approaches to land use regulation such as:

(a) creating incentives to help retain historic buildings;

(b) taking measures to promote retail at grade;

(c) establishing special controls to monitor the effects of new development on the pedestrian environment;

(d) proposing detailed policies and criteria related to specific aspects of the form of developments, particularly overshadowing, form and provision of recreation zone, pedestrian walkways, etc.

(e) development of a design handbook contain criteria and guidelines relating to the built form of a development to be employed by Council in the review of proposals under the Development Review By-law.

Relevant areas of concern to open space planning included in the Central Area Plan Review are:

1. Parkland and Recreation Space:
   - (a) background
   - (b) aspects of concern
   - (c) relevant studies
   - (d) issues related to existing parkland and recreation space
   - (e) definitions - present and proposed
   - (f) principles for the development of public parkland and recreation space in new developments
   - (g) criteria, policies and actions for the development of a parks system
   - (h) criteria, policies and actions for the development of recreation space in new developments
2. Physical Form and Amenity
   - (a) the public interest in physical form and amenity
   - (b) principles for the development of physical form and amenity
   - (c) conservation of physical resources
   - (d) accommodation of the walking public
   - (e) environmental conditions

Sept. 1975 Consultant's report Development Control Policies: Their Purpose and Economic Implications prepared for the City of Toronto Planning Board by David Nowlan.

The report is an analysis of the purpose and effectiveness of the major development control measures available to the City from an economic perspective. There is much discussion of the problems of using zoning provisions to influence urban structure.

Major observations argue that the City often fails to relate to the rate at which development takes place, and tends to follow private market forces and not to lead them. It also noted that density ratios often fail to achieve specific social objectives.

Oct.3, 1975 Consultant's reports submitted to the Planning Board:

(1) Built Form Analysis, by George Baird;

(2) The Development Process: Private Sector Decision Making by Peat Marwick and Partners

Nov.20,1975 TAPEC Report No. 2 submitted by the Toronto Architects Planning Evaluation Committee to the Toronto Planning Board

This is the Committee's second commentary on planning matters in the Core Area of the City of Toronto, specifically in response to the Proposals report of October 1975. It is an interesting, thoughtful review and makes extensive comments and recommendations, re: open space, terminology used, implementation strategies, streetscape design, built form, general design criteria and guidelines, recreation space, setbacks, the approval process, etc.

Jan.6,1976 The City of Toronto Planning Board Committee on Parks, Recreation and City Property received the Commissioner of Planning report Implementation of a Parks Program for the Central Core

The report was prepared in response to public concerns over the economic feasibility of the Parkland and Recreation Space proposals contained in the Central Area Review Plan. Its purpose is to answer questions of concern and to recommend a program to the Planning Board and Council for the implementation of the Plan's proposals.

There are several suggested land acquisition techniques:

(a) street closings

(b) use of other publicly-owned sites

(c) exchange of road allowances for parkland

(d) requiring or encouraging the conveyance of parkland

(e) acquisition at market value

It further suggested sources of revenue to finance acquisition and development of a basic park system, such as:

(a) cash contributions as permitted by 35(b)

(b) operating surplus of the Toronto Parking Authority

(c) proceeds from the sale of houses originally acquired by the City for park purposes to the City of Toronto Non-Profit Housing Corporation (this latter technique is geared towards the acquisition of parkland in immediate priority locations)

(d) property tax levy

(e) debenturing

The report includes tables showing breakdowns of proposed land acquisition with respect to:

(a) total site area to be acquired

(b) total acquisition costs divided into three phases (immediate, high, longer term priority) over ten years from 1976-1985

Report Conclusions:

(1) That financial objections and concerns raised over the implementation of the General Plan Parkland proposals do not appear to be well founded.

(2) That other sources of funds are available to underwrite the largest part of the acquisition

costs without disrupting the existing capital expenditure program.

Report Recommendations:

(1) That the City commit itself to providing over 19 acres of new public parkland in the Core at a cost of approximately $10.8 million through 1985.

(2) That a by-law be prepared to implement the powers of 35b which is applicable to the Central Core and applies to the residential portion of mixed commercial-residential developments as well as wholly residential projects.

(3) That a fund be established for the acquisition and development of parkland in the Central Core.

(4) That a Parks Acquisition Plan be prepared to provide detailed information on the proposed location, use, cost and alternatives available for each proposed site.

Jan.31,1976 City of Toronto Council Meeting

1. Alderman Sparrow proposed the following additions to the discussion of the Central Core Parks Development

   (a) "It is the policy of Council to acquire and develop new parkland in the Central Area at the rate of a minimum of 5 acres per year for the next 10 years. Acquisition shall first take place in those parts of the Central Area which are most deficient..."

   (b) "Accordingly, it is the policy of Council that areas within the Central Core in which a local or district park one acre in size or larger is not currently within 1/8 mile of any location contained within the area will be designated as areas of park deficiency.

   (c)"It is the policy of Council to finance the acquisition of parks within a park deficiency areas by taxes on property located within the delimited area."

(d) "In any area designated as an area of park deficiency, residential development as of legal right shall be at a density no greater than "Low Density Mixed Use" if the area is shown as a "mixed use" area on the Official Plan or at low density residential otherwise."

(e) "In any area designated as an area of park deficiency where densities higher than "Low Density Mixed Use" or "Low Density Residential" are permitted by the Official Plan, it is the policy of Council that no application for amendment of the Zoning By-law to permit such higher densities will be approved if the application is for a location farther than 1/8 mile from a local or district park."

All proposed additions were lost by a narrow margin between votes.

2. Submitted to the Executive Committee of City Council at the same meeting was the report Appendix A: Buildings and Development Report 2

(a) Major Public Concerns

(b) Appropriateness of Proposed Standards

(c) Need for Assurance of Implementation of Parks Program

(d) Need for Greater Flexibility in Implementing Recreation Space Policy

(e) Physical Form and Amenity

(f) Public Comment

(g) Implementation of the Physical Form and Amenity Objectives

(h) The Use of Discretion

3. The Central Area Plan and By-law was enacted by City Council, but not approved by the O.M.B. until 1980, after a lengthy legal battle.

May 13,1976 Private Bill 13 given Royal Assent

Section 6 of this Bill permits Council to pass by-laws levying property owners defined as receiving special benefits from a park for the cost of acquiring and developing the park. Bill 13 requires that the levy be apportioned against each property in the area defined as receiving benefit in the same ratio as the assessment of all properties in the area. However, the City is given the power to (1) define the area of benefits; and (2) to identify the classes of property which may be excluded from the levy.

1976 The Toronto Field Naturalists' Club published Toronto the Green

This report was written to increase the public's knowledge and appreciation of the natural areas of Toronto. It discusses the natural history of the Toronto environment and describes the major watersheds, valleys and ravine system in and near the city. The study makes policy recommendations for the conservation and management of natural areas in and around Metropolitan Toronto concerning open space planning, establishment of protected sites, protection of ravines, management guidelines, and public participation. The report includes an extensive bibliography and sources of information on parks.

Nov.10,1976 Council passed By-law No. 584-76 to require as a condition of development or redevelopment of land for residential purposes, 5 percent of the land be conveyanced to the Corporation for park purposes. This By-law is applicable only to Central Core Area. For the implementation of this By-law, Council adopted the policy of accepting cash-in-lieu of conveyance in cases where a conveyance would not result in a minimum surface area of one-third of an acre, or where the conveyance of land would not facilitate the development of pedestrian ways, bicycle routes or existing or proposed park space. Where land was taken, Council adopted the policy of calculating the permitted residential portion of a development on the basis of the original lot minus any land deeded to the City and the permitted commercial portion of a mixed-use development on the basis of the original lot. The Central Area Plan Proposals report recommended this By-law as an initial component of a longer range program to finance a system of parks for the Central Core. On October 24, 1978, this By-law was repealed. Reasons given included the conclusions that many land parcels involved were felt to be too small for use as parkland or open space; the payment-in-lieu option was at the discretion of the landowner; and there was concern regarding the impact on cost of residential development, especially assisted housing.

Jan. 1977 — Guidelines for Urban Open Space Planning published.

The final report of the Urban Open Space Study launched in 1972 by the Ministry of State for Urban Affairs consists of the findings of three former projects:

(a) A Survey of Canadian Communities

(b) Case Studies of Urban Open Space Planning

(c) A Survey of Open Space Roles and Values

April, 1977 — Report of the Planning Act Review Committee received by the Minister of Housing

An examination of the planning system and planning process in Ontario: legislative framework, regulatory mechanisms, planning structure, planning procedures and public involvement in planning.

It is a detailed review and discussion of the development control system and the strengths and weaknesses. It makes several proposals for change, including temporary use, bonus/incentive zoning, interim control by-laws, holding by-laws, and notes that the present system should not be replaced by a system of development permits. Instead, it argues that the City should require the adoption of a planning statement with objectives and principles; and a development review by-law emphasizing criteria.

March 2,1978 — Reports to Committee on Buildings and Development concerning (1) the Central Core Parks Program; and (2) Policy on Land Takings Pursuance to the Powers conferred under Section 35b of The Planning Act.

Both reports deal with the financing of park acquisition particularly in relation to the Central Core Parks Program. They recommend that alternative means to cash-in-lieu of land taken under Section 35(b) of the Planning Act be employed to supplement the City's Parks acquisition budget.

The "Central Core Parks Program" report recommended that Council make a choice between a general levy over the entire City and a local levy on parts of the Central Core as a means to supplement the regular capital budget allowance for parks. The report also recommended that Council should consider the possibility of selling High Park to Metro and using the funds obtained to finance parkland acquisitions.

May, 1979 White Paper on the Planning Act Background Paper 3: Analysis of Planning Act Review Committee Recommendations on Development Control prepared by Proctor and Redfern Limited for the Ministry of Housing.

Important comments with respect to development review proposals are:

"serious reservations about the desirability of legislating aesthetics"; and

"without a three-dimensional urban design concept it is difficult if not impossible to develop design guidelines which promote any innovative urban form"

Conclusions:

(a) the present development control system requires substantial change in order to adapt it to present needs;

(b) the development review process as prescribed by the Committee would have great difficulties in achieving its objectives;

(c) the use of temporary zoning by-laws is recommended;

(d) strongly recommended that the Province undertake the task of developing an 'Ontario Development Code' based on detailed research of the issues in development review to achieve universal standards for use by local municipalities.

The authors wished to stress the importance of regulating the performance of developments rather than technicalities.

June 1980 A Study of Local Parks Outside the Core Area and Technical Appendix prepared by the City of Toronto Planning and Development Department.

The study includes discussion of the following:

(a) Background and Official Plan Policy;

(b) Existing Parks and Open Space;

(c) Park Deficient Neighbourhoods;

(d) Program for More Parkland;

(e) Financing;

(f) Recommendations;and

(g) Maps showing the existing facilities and the priority areas for parkland

Dec.19,1980 Planning staff discussion paper on the Implementation of the Central Core Parks Program prepared by Meena Dhar and Bob Millward

Dhar and Millward identified several problems and issues involved in the implementation stage:

(a) finding park sites;

(b) focus on South Midtown is too narrow;

(c) excessive emphasis on public parkland alone; and

(d) the efforts of various individuals and departments are not co-ordinated.

It discussed various ways to acquire funds and an work program is suggested with its focus to be on policy work, rezoning and development review criteria, inventory and mapping open space network.

April, 1981 City of Toronto Official Plan Part I Consolidation prepared by the Planning and Development Department and adopted by City Council.

This plan embodies many of the goals and objectives of The Central Area Plan drafted in 1974. Of particular interest are the sections on Physical Form and Amenity; Parks, Ravines and the Waterfront; and Parkland and Recreation Space in the

Central Core. The 1981 Official Plan statements encourage, for example, the development of distinct areas of special identity or community; and development of a system of parks, walkways and open spaces that will contribute to the enhancement of public life. For the first time Council has established parameters for the achievement of a basic parks system in the Central Core by 1985.

Apr.14,1982 Report entitled "Developers' Contribution towards the Purchase of Parklands" received by the Neighbourhoods Committee

The report recommended that Council reconsider its decision of October 24, 1978 to not make use of the park levy provisions of the Planning Act, since past concerns are now overtaken by events, especially by the proposed revisions of the Planning Act and the actions of the private housing market downtown.

It recommended that Council request cash-in-lieu of conveyance if the proposed parcel is not suitable for use as public open space. It also recommended that the money raised from cash-in-lieu of provisions be added to the budget for parks organization and improvement throughout the city.

Suggested as well was the proposal that the Official Plan statements with regard to parks be rewritten to include additional users of parkland acquired from levies against non-residential properties in commercial and industrial employers, shoppers, tourists, etc.

April 1983 "Progress Report on the New Planning Act" by Cathie Macdonald

Ms. Macdonald highlighted the proposed changes in the Act and steps to be taken by the City in order to implement the new Act

She stresses land use controls; site plan control; conveyance of land for parkland and recommends "that the Commissioner of Planning and Development be requested to report on (1) the use of the expanded provisions for acquiring parkland or payment in lieu of such land for commercial and industrial projects; and (2) by December 1983 on appropriate amendments to the Official Plan with respect to designating areas for site plan control, conveyances for street and lane widening, and areas where expanded site plan control provisions should be available for the review of small residential projects. This report was submitted to Land Use Committee entitled ´Implementation of the New Planning Act by the City of Toronto´ on June 15, 1983.

APPENDIX B

City of Toronto Official Plan Part I and Zoning By-law Definitions

Official Plan Definitions

City park - means a park owned or leased by the Corporation of the City of Toronto.

Common park - means a park owned or leased by the Corporation of the City of Toronto.

Common outdoor space - means an area or areas on a lot, containing in whole or in part non-residential uses, which area or areas are exterior to the building and are suitable for such purposes as walkways, sitting areas, landscaping areas or other similar purposes and which areas are adjacent to and accessible from streets, parks, walkways and other pedestrian areas.

District park - means a park which accommodates both active and passive recreational uses, located within a defined district, and which provides at least one recreational facility of significant to the inhabitants of the district and may include a swimming pool, an artificial ice rink, a community centre, a place for large public gatherings and performances, extraordinary landscape features, a wintergarden, or other similar facilities.

Local park - means a park which is at least 1300 square metres in size, and which accommodates both active and passive recreational uses, and may include a playlot, or public playground, and athletic playing field.

Open Space - defined by boundary lines. (See Map 1A of the O.P.) shall not be construed as implying that open space areas are free and open to the general public or will be purchased by any municipality.

Park - means a defined area owned by or leased to a government which is laid out and used for public recreation.

Recreation Space - means an area or areas within a lot on which a building containing residential uses is located, which area is provided for the exclusive use of its residents for recreational purposes, on an individual or shared basis.

Regional Park - means parkland which forms a major integrated parks system and which is located in the areas which form a chief natural feature of the City or Metropolitan Area.

Street Park - means a park or any other land owned by or leased to a government which is located within or adjacent to a street allowance and which accommodates passive recreational uses and may include sitting areas, landscaped areas or other similar areas.

Zoning By-law Definitions

"Shared recreation space" means recreation space provided within or outside a building for the use of the residents of such building for recreational or social purposes, and includes a landscaped area, garden, terrace, outdoor swimming pool, outdoor games or play area, tot lot, covered sitting area, indoor swimming pool, sauna, shower and change room, exercise room, hobby room, workshop, lounge or a meeting room".

"Common outdoor space: means any paved, sodded or landscaped area which:

(i) adjoins, and is directly accessible from, a street, park or other public area, a pedestrian walkway on a lot, or a pedestrian walkway within a building on such a lot;

(ii) is open to the sky or is covered by a structure or any portion of a building but not located within a building;

(iii) is located within 2 metres of a grade and is accessible therefrom by means of a stair or ramp;

(iv) is not narrower than 2.5 metres for an area covered by a structure, and not narrower than 3 metres for any other area; and

(v) is not used for the purposes of a driveway, vehicular ramp, loading or servicing area, outdoor storage area, motor vehicle parking area, or stairs or any portion thereof where the treads of such stairs are less than 1.5 metres in width.

"landscaped open space" means open unobstructed space on a lot which is suitable for the growth and maintenance of grass, flowers, bushes and other landscaping ... and includes (i) any surfaced walk, patio or similar area; (ii) any tennis or badminton court or other similar sports or recreational area and (iii) any swimming or decorative pool, but does not include any driveway or ramp, whether surfaced or not, any curb, retaining wall, motor vehicle parking area or any open space beneath or within any building or structure.

"Public park" means land which is used for public recreation and which is owned by or leased to a government or a government authority or agency.

"Street" means a public highway or private thoroughfare.

APPENDIX C-1

Recreation Standards Recommended by the National Recreation and Park Association by Classificaiton and Population Ratio

Classification	Acres/ 1000 people	Size range	Population served	Service area
Playlots	*	2500 sq. ft. to 1 acre	500-2500	Subneighbourhood
Vest pocket parks	*	2500 sq. ft. to 1 acre	5000-2500	Subneighbourhood
Neighbourhood parks	2.5	Min. 5 acres up to 20 acres.	2000-10,000	1/4-1/2 mile
District parks	2.5	20-100 acres	10,000-50,000	1/2-3 miles
Large urban parks	5.0	100+ acres	One for ea. 50,000	Within 1/2 hr. driving time
Regional parks	20.0	250+ acres	Serves entire population in communities; should be distributed throughout larger metro areas	Within 1 hr. smaller time
Special areas and Facilities	*	Includes parkways, beaches, plazas, historical sites, flood plains, downtown malls, and small parks, tree law etc. No standard is applicable.		

*Not applicable.

Source: Buechner, R. (ed.) National Park, Recreation and Open Space Standards, National Recreation and Park Association, 1971, pp. 12.

APPENDIX C-2

TYPES OF OPEN SPACE IN A RECREATION SYSTEM

ORIENTATION	FUNCTION	SPACE, DESIGN AND SERVICE AREA	EXAMPLE
Home oriented space	Should meet aesthetic qualities and accommodate informal activities of an active and passive nature, i.e. sitting, reading, gardening, sunning, children's play, and family activity	Varies according to housing type; immediately adjacent or within 500 feet of each dwelling unit	Front and back yards, driveways, sidewalks, porch, balconies, workshops, play rooms, recreation rooms
Home cluster or sub-neighbourhood common space	Especially important in high-density areas, providing visual relief and aesthetic qualities for similar activities to those mentioned above, as well as meeting areas for small informal groups, walking, jogging, and dog walking	Must be visually accessible; varies from 500 square feet to 2 acres; designed to be as flexible and adaptable as possible; will serve an area of 100 yards to ¼ mile radius	Vacant lots, cul-de-sacs, boulevards, green belts, walkways, trails, play lots, rest areas, vest-pocket parks, parkettes
Neighbourhood space	Should accommodate neighbourhood interest preferences; may include sports areas for minor leagues, outdoor skating rinks, water play, as well as special events and informal passive activities	Space should be associated with an elementary school; varies from 4 to 20 acres; will serve 5000 people within an area of ¼ to ½ mile radius	Neighbourhood parks or park-school combinations; play fields for baseball, soccer, and football; adventure playgrounds; wading pools, neighbourhood centers
Community space	Should accommodate social, cultural, educational, and physical activities of particular interest to the community; multi-purpose, year round, day/night activities; low-level competitive sports with limited spectator space	Space should be associated with a secondary school; varies from 15 to 20 acres; will serve several neighbourhoods or 15,000 to 25,000 people within a radius of ½ to 1½ miles; accessible by walking, cycling, and public transit	Community park or park-school combinations; facilities for playgrounds, recreation centre, meeting rooms, and library; track and field areas, sports fields, arena, and swimming pool

APPENDIX C-2 cont'd

Citywide space	Should provide specialized facilities for the use of a wide segment of the population; will accommodate the preservation of unique historical, cultural, or natural areas	Parks can be 25 to 200 acres; accessible to all residents by private and public transportation; should not exceed ½ hour driving time; should be linked to other open space	Major city parks and areas left in their natural state; beaches, trails, and picnic areas; fair grounds, civic centres, and major sports facilities
Regional space	Specialized areas for conservation and preservation of naturalized resources; usually involves more time-consuming activities, i.e. day-long picnics and family camping	Up to 500 acres or more, serving two or more municipalities; if possible accessible by public transportation; within 20 miles or 1 hour driving time of high-density areas	Conservation areas, botanical gardens, regional and provincial parks, wild life santuaries and naturalized reserves; scenic drives and waterway systems; air fields, ski areas, zoos, and museums

SOURCE: Ministry of Culture and Recreation. Guidelines for Developing Public Recreation Facility Standards. Ottawa: Sports and Fitness Division, 1976. pp. 32-33.

APPENDIX D

COMPARISON OF PARK STANDARDS

Municipality	Standards
MISSISSAUGA	
Neighbourhood & District Parks	2.5 Acres/1000 population
Schoolgrounds	2.5 acres/1000 population
Major Parks	2.5 Acres/1000 population
Special Parks	10.0 Acres/1000 population
	17.5 Acres/1000 population
BURLINGTON	
Neighbourhood Parks	3.0 Acres/1000 population
Community Parks	5.0 Acres/1000 population
School Sites	2.5 Acres/1000 population
Special Areas	7.5 Acres/1000 population
	17.5 Acres/1000 population
HAMILTON	
Neighbourhood Parks	2.5 Acres/1000 population
Community Parks	1.0 Acres/1000 population
District Parks	1.5 Acres/1000 population
City-Wide Parks	5.0 Acres/1000 population
	10.0 Acres/1000 population
LONDON	
Neighbourhood Parks & Playgrounds	1.5 Acres/1000 population
District Parks	2.0 Acres/1000 population
Large Urban Parks	4.0 Acres/1000 population
Specialized Use Areas	2.5 Acres/1000 population
Natural Parks Areas	2.0 Acres/1000 population
	12.0 Acres/1000 population
PETERBOROUGH	
Parks Local	2.5 Acres/1000 population
Non Local	7.5 Acres/1000 population
	10.0 Acres/1000 population

Open Space Local	5.0 Acres/1000 population
Non Local	30.0 Acres/1000 population
	35.0 Acres/1000 population

BRAMPTON

Parkland Local	6.0 Acres/1000 population
Major	1.0 Acres/1000 population
Special	3.0 Acres/1000 population
	10.0 Acres/1000 population
Tableland Local	4.0 Acres/1000 population
Major	.6 Acres/1000 population
Special	.4 Acres/1000 population
	5.0 Acres/1000 population

ST. CATHERINES

Neighbourhood with 2.0 active recreation .5 natural passive	2.5 Acres/1000 population
District Parks & Playfields	1.25 Acres/1000 population
City-Wide & Regional Open Space	11.25 Acres/1000 population
	15.0 Acres/1000 population

Source: Town of Oakville Official Plan, 1979. pp.49-50

PUBLIC OPEN SPACE IN THE CITY OF TORONTO:

A RESOURCEBOOK FOR PLANNERS

VOLUME TWO: THE PRACTICE

PREPARED BY: JO-ANNE M. EGAN

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Produced by
City of Toronto Planning
and Development Department
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Commissioner

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PREFACE

This research is presented as a collection of materials related to the planning and design of public open space in the City of Toronto from concept through to implementation. It is intended to serve as a resource document for planners engaged in the study of public open space who require information focussed specifically on the City of Toronto and also wish to explore the subject area on a general level to learn from the ideas and activities of others.

The purpose of the study is:

(1) to review the past trends in approach to the planning and design of public open space in the City of Toronto, focussing on the Central Core and Waterfront areas;

(2) to analyze the City's current planning practice in regard to the methods used to identify need, secure public access to a variety of open space opportunities and achieve specific open space objectives;

(3) to identify possible weaknesses and ambiguity in the current approach; and

(4) to make recommendations for the enrichment of public open spaces throughout the city.

Format and Contents

Format

The resource book is divided into two mutually-interdependent volumes to facilitate easy access and use of the material (especially Volume Two) on a day-to-day basis. Volume One introduces the reader to a discussion of the theoretical issues current in the subject area while the second volume is composed of the information that is more likely to be used regularly for reference purposes and in the daily decision-making process.

Each chapter is followed by footnotes, where appropriate, and bibliographic references.

Contents - Volume One: The Theory

Volume One contains six chapters. Each chapter is briefly describes below:

Chapter I: Grand Plans and Lost Opportunities: The Development of Public Open Space in the City of Toronto

This chapter highlights the important dates, events, and documents that have influenced planning and design of public open space in the City of Toronto. The research begins with a description of the first plan of "Toronto" harbour by Captain Gother Mann in 1788, and continues through to the most recent amendments to The Planning Act in August, 1983. This information is presented in a chronology that accompanies a synopsis of these events and a review of the lessons to be learned from the past.

Chapter II: Defining the Concept of Public Open Space

This chapter discusses the inherent advantages and disadvantages of trying to define the term ´open space´ as a land use category and the added complications when public access to differing forms of open space is attempted by a municipality. The City of Toronto does not define ´open space´ explicitly in the Official Plan or zoning by-law. Instead, one finds a proliferation of various terms and definitions throughout these documents that describe only a portion of a larger open space system. Recommendations are made to help erase this confusion and to encourage planners to review the Official Plan statements in this regard.

Chapter III: The Use of Parkland/Open Space Standards

The origins of the use of standards as a tool in the planning of parkland/open space is described in this chapter followed by a discussion of how the City of Toronto has adapted the standards approach to suit its own needs. The potential usefulness of standards is explored and the three most widely known methodologies are explained. Finally, the methods used by the City to assess need in the Central Core and Waterfront areas are discussed with comments and conclusions on this approach provided.

Chapter IV: Public Open Space Objectives

This chapter establishes a philosophical approach or conceptual framework within which decisions regarding the planning and design of public open space can be made. Five objectives are presented that form the basis for the development of a planning approach as follows: diversity, flexibility, need for public participation, user-orientation and integration.

Chapter V: Non-Use of Present Resources

This chapter explores the reasons why some open space resources are under-utilized. Historically, many parks have suffered from a poor location relative to their potential users. However, this is only one of many factors that may contribute to non-use. Seymour Gold and Jane Jacobs have identified several other factors such as the physical, mental, and cultural differences of users, inadequate dissemination of information, and physical barriers for the young handicapped or elderly. The works of both Gold and Jacobs are reviewed in detail as part of this discussion, since curiously, this problem is seldom addressed by planners or researchers.

Chapter VI: New Approaches in the Provision of Public Open Space: Opportunities in the Core and Waterfront Areas

The final chapter in Volume One is designed to encourage planners to view open space as a valuable resource that can, with imagination, become multi-functional in an urban community. The successful use of vacant parcels of land and parking lots as temporary parks is discussed as well as the recycling of other under-utilized resources such as roof tops, golf courses, cemeteries, and outdoor parking at grade. An inventory of open space opportunities in the City of Toronto is provided accompanied by an extensive computer listing of suitable parcels of land in the Core and Waterfront areas.

Contents - Volume Two: The Practice

Volume Two contains three chapters which are each described below:

Chapter I: Enabling Legislation

The intent of this chapter is to provide the reader with an overview of the legislative powers that influence the planning and design of public open space in the City of Toronto and environs. The powers described range in scope from the generality of The Municipal Act to the specific Official Plan statements. Excerpts follow a brief summary of each document to assist in the use of this material as a reference guide.

Chapter II: Site Plan Control and Related Public Open Space Negotiation Opportunities

This final chapter describes the procedures involved in the Site Plan Control or Development Review process in detail, since the powers derived from the provisions of The Planning Act are critical to the planning and design of public open space. Other development-related negotiation opportunities are also reviewed in addition to the benefits of the above processes. The chapter concludes with a discussion of some of the extra-statutory development approval techniques that are also used by local municipalities in Ontario to direct development.

Chapter Three: Techniques for Preserving Public Open Space: Acquisition, Access, and Control

Several techniques are described for use in the acquisition, access or control of land for open space purposes. The advantages and disadvantages of each technique from the perspective of the municipality are included in this discussion.

Acknowledgements

The background research for this resourcebook began as part of a project of the Urban Design Group of the City of Toronto Planning and Development Department. Later, it was broadened in scope to fulfil the requirements of the Faculty of Environmental Studies, York University where it has been submitted as a supervised paper done in partial completion of a Masters Degree in Urban Planning. I would like to thank the staff of the Urban Design Group, especially Ken Greenberg, Mary Lynn Reimer and Marc Hewitt for their support of my work. I am also grateful to Jeannie Price for her inexhaustible ability to transform my illegible notes into type. In addition, I would like to show my appreciation to Professor Alex Murray, my principal academic advisor, who introduced me to new ideas and challenges. Finally, I would like

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CHAPTER I: ENABLING LEGISLATION

ENABLING LEGISLATION

INTRODUCTION

The intent of this section is to provide the reader with an overview of the legislative powers that influence the planning and design of public open space in the City of Toronto and environs. As presented, the powers described range in scope from the generality of the Ontario Municpal Act to the specific Official Plan statements of the City of Toronto. Excerpts follow a brief summary of each document to assist in the use of the enclosed material as a reference guide. However, the reader is advised to consult the most current edition of the legislation when necessary, since additions and revisions occur frequently.

SUMMARY AND EXCERPTS OF THE AVAILABLE LEGISLATIVE POWERS

Municipal Act (R.S.O. 1980, c.302)

Summary:

This Act establishes the range of powers and duties of municipal councils as prescribed by the Province. Important powers related to the planning and design of open space derive from the provisions of this Act with respect to the ability of Council to pass by-laws re: the acquisition and maintenance of parks, issuing of debentures and/or establishing a reserve fund for the purchase or improvement of parks, and the maintenance and improvement of the streetscape.

Excerpts:

143. (1) A money by-law shall provide that the whole debt and the debentures, if any, to be issued therefor shall be made payable within the respective periods hereinafter mentioned at furthest from the time when the debentures are issues,

(a) if the debt is for railways, harbour works or improvements, gas or water works, the purchase or improvement of parks or the erection of secondary or public school houses, public hospitals and the acquiring of land therefore, or for electric light, heat or power works or water privileges or land used in connection therewith, or for acquiring land for a drill-shed or armoury, in thirty years;

165. (1) Every municipality as defined in The Municipal Affairs Act and every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory may in each year provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds, provided that, where the approval of the council is required by law for a capital expenditure or the issue of debentures of or on behalf of a local board, the approval of the council of a provision in the estimates of the local board for a reserve fund shall be obtained. 1976,c.69,s.7(1).

(2) The moneys raised for a reserve fund established under subsection 1 shall be paid into a special account and may be invested in such securities as a trustee may invest in under The Trustee Act, and the earnings derived from the investment of such moneys form part of the reserve fund. R.S.O.1970,c.284,s.308(2);1979, c.101,s.3(1).

(4) The council may by by-law provide that the moneys raised for a reserve fund established under subsection 1 may be expended, pledged or applied to a purpose other than that for which the fund was established. 1976, c.69, s.7(2).

193. (1) The Council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting

and repairing buildings thereon, and for making additions to or alterations of such buildings, and may sell or otherwise dispose of the same when no longer so required.

(2) Without limiting the generality of this section, in subsection 1 "otherwise dispose of" shall be deemed to include and to have always included a lease.

(3) Where in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

(4) A by-law for entering on or expropriating land shall contain a description of the land and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated. R.S.O.1970,c.284,s.336(1-4).

(5) A municipality as defined in The Municipal Affairs Act, including The Municipality of Metropolitan Toronto, that has authority to expropriate land may, with the approval of the Municipal Board, exercise this authority in respect of the land of another such municipality. R.S.O.1970,c.284,s.336(5); 1972,c.1,s.104(6).

(6) The council of every corporation may pass by-laws providing for the use by the public of lands of which the corporation is the owner and for the regulation of such use and the protection of such lands. 1978,c.32,s.15

208. (51) For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality and, in respect of lands acquired for any of such purposes that are not under the general management, regulation and control of a board of park management, for exercising all or any of the powers that are conferred on boards of park management by The Public Parks Act.

(a) A corporation that expropriates land in another municipality under the powers conferred by this paragraph shall put the land in an efficient state to be used and open it to the general public for the purpose for which it was acquired within a reasonable time after such expropriation, and shall maintain and keep the land in an efficient state of repair and shall provide police protection therefor.

(b) Where land is acquired under this paragraph the cost of acquisition and maintenance thereof or any part thereof may be levied against a defined area in the municipality that in the opinion of council derives special benefit therefrom.(1)

(c) Where land is acquired under this paragraph for park purposes and there is no board or park management, the council may appoint such number of persons qualified to hold office as a member of council as it considers appropriate to act on its behalf as a board of management for any undertaking under this paragraph. R.S.O.1970, c.284, s.352, par.68; 1980, c.36, s.2(2).

(52) For accepting and taking charge of land, within or outside the municipality, dedicated as a public park for the use of the inhabitants of the municipality.

(53) For entering into agreement with one or more municipalities for the purpose of,

i. acquiring land for and establishing and laying out a public park within the municipality or within any other municipality, and

ii. maintaining or operating a public park within the municipality or within any other municipality.

(54) For establishing, laying out and maintaining bicycle paths and for regulating the use thereof and for acquiring land for such purposes and for entering into agreements with other municipalities, including a regional, district or metropolitan municipality, or with the Crown in right of Ontario or the Crown in right of Canada, or with any person or any other body for the use of land for such purposes.

(57) For acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial

windows, tablets, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community centres, stadia, museums, including public historical museums and similar buildings, within or outside the municipality that may or may not be in commemoration of the persons or any class thereof who served during any war in the armed forces of Her Majesty or Her Majesty's allies or in the auxiliary or ancillary services of such forces or in the merchant marine or any Corps of (Civilian) Canadian Fire Fighters for service in the United Kingdom.

(a) The Corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor or for any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof.

(d) The councils of two or more municipalities may enter into agreement for carrying out any of the purposes of this paragraph in any one of such municipalities.

210. By-laws may be passed by the councils of local municipalities:

(52) For acquiring, establishing, constructing, maintaining and operating a street lighting system.

(74) For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yard and vacant lots and the altering, relaying or repairing of private drains.

210.(123) Subject to the approval of the Minister of Transportation and Communications, to establish all or any part of any street solely or principally as a way for the use of pedestrians, and for prohibiting the use thereof by vehicles or any class thereof except to such extent or for such period or periods as may be specified. R.S.O. 1970, c.284, s.354 (1), par. 110; 1972, c.1, s.100 (2).

217. (34) The Minister and a local municipality may enter into agreements for the provision of loans or grants to the municipality on such terms or conditions as are agreed upon for the purpose of the improvement, beautification and maintenance of municipally owned

lands, buildings and structures in the municipality or in any defined area thereof and for the purposes mentioned in paragraph 55 of section 208. 1978, c.32, s.18, part.

(131) For requiring vacant lots to be properly enclosed.

309. By-laws may be passed by the council of every municipality:

(1) For setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense boulevards on that part of the highway that may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic.

(2) For regulating the construction, maintenance and protection of such boulevards. R.S.O. 1970, c.284, s.453, pars. 1,2.

(3) For placing or permitting any person under such conditions as may be agreed upon to place, construct, install, maintain and use objects in, on, under or over sidewalks and highways under its jurisdiction, to permit any person to make, maintain and use areas under and openings in the highways and sidewalks, for prescribing the terms and conditions upon which the same are to be placed, constructed, installed, maintained or used, for making such annual or other charge for the privilege conferred by the by-law as it considers reasonable, and for providing that, upon the termination of such privilege, the highway or sidewalk shall be restored to its former condition at the expense of the person to whom the privilege was granted, by filling in the area or opening or removing said object, or otherwise as may be required in the by-law.

(a) Payment of such annual or other charge and expense incurred by the municipal corporation in restoring the highway or sidewalk to its former condition may be enforced in like manner as taxes that are due and payable.

(b) Subject to section 434, the municipal corporation is liable for any want of repair of the highway that may result from the construction, installation, maintenance or use of any such area or opening, or such other object. 1974, c.136,s.20.

(5) For setting apart and laying-out so much of any highway as the council may consider expedient for the purposes of a bicycle path or footpath and for the regulation of such a bicycle path or footpath. 1980, c.74, s.22

313. The Council of every municipality may pass by-laws,

(4) (a) authorizing and regulating the planting of shade and ornamental trees upon any highway;

(b) authorizing and regulating the planting, with the consent of the owner, of shade or ornamental trees adjacent to any highway at the expense of the municipality, and any tree planted under the authority of any such by-law is the property of the owner of the land in which it is planted, and the municipality is not liable for maintenance or otherwise in respect of any tree so planted;

(c) for preserving trees;

(d) for prohibiting the injuring or destroying of trees;

(e) for causing any tree planted upon a highway to be removed when considered necessary in the public interest, but the owner of the trees shall be given ten days notice of the intention of the council to remove such tree and be recompensated for his trouble in planting and protecting it and, if he so desires, is entitled to remove the tree himself, but is not entitled to any further or other compensation;

(f) prohibiting the planting of any species of tree that the council considers unsuited for that purpose and for the removal without notice of such trees growing on a highway or planted thereon contrary to any such by-law;

(g) authorizing any officer or committee of the council to supervise the planting of trees upon the highways and the trimming of trees planted upon a highway or upon private property where the branches extend over a highway, or to remove decayed or dangerous trees or trees that have by by-law of the municipality been directed to be removed.

(h) prohibiting the attaching of any object or thing to a tree located on any highway or public place, except with the consent of an officer of the municipality named in the by-law, notwithstanding that such attachment would not injure or destroy the tree. R.S.O. 1970, c.284, s.457(4); 1975, c.56, s.12; 1978, c.32, s.27.

6. Except with the authority of the council or a committee or officer thereof appointed as aforesaid, no person shall remove or cut down or injure any tree growing upon a highway.

315. The councils of all municipalities may pass by-laws: R.S.O. 1970, c.284, s.460, part.

2. For regulating the crossing of curbings, sidewalks or paved boulevards by vehicles delivering materials to or removing materials from abutting lands on which any building is being erected, altered, repaired or demolished, and for requiring the owners of such abutting lands, upon any application for the issuing of a permit certifying to the approval of plans of buildings to be erected, altered, repaired or demolished thereon, to pay to the municipality a sum of money not to exceed $25 per metre of the limit of the lot abutting directly on such sidewalk, curbing or paved boulevard as a deposit to meet the cost of repairing any damage to the sidewalk, curbing or paved boulevard or to any water service box or other service therein caused by the crossing thereof by such vehicles.

426. (3) If the price offered for any land at the adjourned sale is less than the full amount of the taxes for which the land was offered for sale and the charges and costs, or if no price is offered, it is lawful for the municipality to purchase the land for the amount due, provided that an appropriation has been

made for the purpose and that previous notice by public advertisement in the local newspaper or in one of the local newspapers in which the original sale was advertised of intention so to do has been given by the treasurer; and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of the sale, and togeher with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 583, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land if it had remained the property of the former owner and been liable for taxation, and such taxes shall be computed at a rate fixed by by-law for each year in which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontages shown upon the list of properties and the frontages thereof as settled by the Assessment Review Court for such local improvement. R.S.O.1970,c.284,s.567.

Public Parks Act (R.S.O. 1980, c.417)

Summary:

This Act is a further refinement of the powers granted under The Municipal Act relating specifically to the use, regulation, and management of public parks. The Public Parks Act allows for the creation of a ´Board of Park Management´ which is intended to function primarily as a special purpose body reporting to Council on matters concerning public parks in the municipality. The Act confers on the Board an extensive list of duties and responsibilities. The Board has the power to pass by-laws that govern all aspects of park management; to purchase, lease, and sell land for park/recreational purposes; and to set aside funds raised by debentures for the purchase of land and/or privileges required for park purposes.

Excerpts:

1. (1) A park, or a system of parks, avenues, boulevards and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner herinafter provided.

2. (1) The parks, avenues, boulevards and drives, and approaches thereto, and streets connecting the same, shall be open to the public free of all charge, subject to the by-laws rules and regulations of the board of park management, and subject also to sections 13 and 14.

(2) The board of park management may pass by-laws prescribing fees for the use of any facilities provided in any park.

(3) The board of park management, with the approval of the council of the municipality, may pass by-laws

prescribing fees for entrance to any park. R.S.O. 1970, c.384, s.2.

3. (1) Where this Act is adopted, the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under this Act, shall be vested in and exercised by a board to be called "The Board of Park Management".

(2) The authority of the board does not extend to any streets open at the time of the adoption of this Act, with the exception of streets expressly specified in the by-law adopting this Act, or which at any time or from time to time afterwards, in pursuance of an agreement between the council and the board, the council by by-law declares to be subject to this Act.

(3) Nothing in this Act authorizes the board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein.

(4) The council may by by-law appoint the board to manage, regulate and control any undertaking established under paragraph 57 of section 208 of the Municipal Act and thereupon management, regulation and control thereof shall be vested in and exercised by the board, and the board has power to prescribe fees for admittance to or for the use of any such undertaking. R.S.O. 1970, c.384, s.3.

4. The board is a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents or ratepayers of the municipality, but not members of the council, and shall be appointed by the council. R.S.O. 1970, c.384, s.4.

11. (1) The board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario.

12. Real and personal property may be devised, bequeathed, granted, conveyed or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto and of the streets connecting therewith, and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments or works of art, upon such trusts and conditions as may be prescribed by the donor. R.S.O. 1970, c.384, s.12.

13. (1) The board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act.

(2) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation.

(3) The board has power to let any land not immediately required for park purposes.

(4) If it has more land than is required for park purposes, the board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be considered most advantageous.

(5) Where a park has been purchased or has been acquired by the board or by the corporation of the municipality, otherwise than by gift or device, or by dedication to the public by the owner of the land, freely, or at a nominal price or rental, the board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions, or other lawful amusements or entertainments, and may lease it for such purposes, for such times and on such terms as the board may see fit, but the powers conferred by this subsection are not exercisable with respect to any park unless the board has applied for and received the approval of the council. R.S.O. 1970, c.384, s.13.

14. (1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the board, and the board may set apart the land or any part thereof for athletic purposes or for the purposes of sport, exhibitions or other

lawful amusements or entertainments, and may lease it for such purposes, for such times and on such terms as the board may see fit.

(2) The council may repeal any by-law passed under subsection (1), and the municipal corporation may thereafter sell or otherwise dispose of the land or use it for any lawful purpose of the corporation. R.S.O.1970, c.384, s.14.

17. Sections 192, 193 and 195 of the Municipal Act shall be read as part of this Act, and apply to the board as if the board were named therein instead of the corporation or municipal council. R.S.O. 1970, c.384, s.17.

18. (4) Subject as hereinafter provided, the council may also, on the requisition of the board, raise by the issue of debentures the sums required for the purpose of purchasing the land and privileges that are reported by the board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the board for park purposes.

(5) Except as otherwise expressly provided in this Act, the provisions of the Municipal Act as to money by-laws and the debentures to be issued thereunder apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder.

(6) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be deposited by him to the credit of the park fund and shall be paid out by him on the orders of the board. R.S.O. 1970, c.384, s.18.

19. (1) No person shall,

(e) wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park, avenue, drive or other public place under the control of the board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein;

The Planning Act (Bill 159)

Summary

The Planning Act is the legislative instrument of the municipal planning function in Ontario. The Act enables municipalities to prepare and adopt official plans; pass by-laws to regulate the use of land; and to require the conveyance of land for park purposes.

Excerpts

25. (1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have been approved by the Minister after the 28th day of June, 1974, the council may, in accordance with such provisions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, provided that any land so acquired or held may be sold, leased or otherwise disposed of when no longer required.

(2) Any municipality may contribute towards the cost of acquiring land under this section.

34. (1) Zoning by-laws may be passed by the councils of local municipalities:

(i) For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

(ii) For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.

(iii) For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land with steep slopes, or that is rocky, low-lying, marshy or unstable.

(iv) For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.

34. (3) The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law.

34. (8) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality.

35. (1) The council of a local municipality may, in a by-law passed under section 34, by the use of the holding symbol "H" (or "h") in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law.

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the use of the holding symbol mentioned in subsection (1).

(3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council refuses or neglects to make a decision thereon within thirty days after receipt by the clerk of the application, the applicant may appear to the Municipal Board and the Board shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order.

(4) Subsections 34(11) to (26) do not apply to an amending by-law passed by the council to remove the holding symbol, but the council shall, in the manner and to the persons and agencies and containing the information

prescribed, give notice of its intention to pass the amending by-law.

36. (1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law.

(2) A by-law may not be passed containing the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development.

(3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters.

(4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.

37. (1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specifed in the by-law, which period shall not exceed one year from the date of the passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law.

(2) The council of the municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the interim control by-law.

38. (1) The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of

land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law.

(2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and prescribe the period for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law.

(3) Despite subsection (2), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized.

39. (1) Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities.

(2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated.

(3) All moneys received by a municipality under an agreement entered into under this section shall be paid into a special account, and the moneys in such special account shall be applied for the same purposes as a reserve fund established under paragraph 55 of section 208 of the Municipal Act may be applied, and the moneys in such special account may be invested in such securities as a trustee may invest in under the Trustee Act, and the earnings derived from the investment of such moneys shall be paid into such special account, and the author of the municipality in his annual report shall report on the activities and position of the account.

40. (1) In this section, "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in clause (a) of paragraph 95 of section 210 of the Municipal Act or of sites for the location of three or more mobile homes as defined in clause 45(1)(a) of this Act.

40. (2) Where in an official plan an area is shown or described as a proposed site plan control area, the council of the local municipality in which the proposed area is situate may, by by-law designate the whole or any part of such area as a site plan control area.

(3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34.

(4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (12), the Municipal Board has approved one or both, as the council may determine, of the following:

(1) Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (7)(a).

(2) Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing less than twenty-five dwelling units, which drawings are sufficient to display,

(a) the massing and conceptual design of the proposed building;

(b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and

(c) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause (c), the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

(5) Despite the exception provided in paragraph 2 of subsection (4), the council of the municipality may require the drawings mentioned therein for a building to

be used for residential purposes containing less than twenty-five dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area wherein such drawings may be required.

(6) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

(7) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to,

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Subject to the provisions of subsections (8) and (9), widenings of highways that abut on the land.

2. Subject to the Public Transportation and Highway Improvement Act, facilities to provide access to and from the land such as access ramps and curbings and traffic direction signs.

3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways.

4. Walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access.

5. Facilities for the lighting, including floodlighting, of the land or of any building structures thereon.

6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.

7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.

8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public

utilities of the municipality or local board thereof on the land.

9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

(b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(c) enter into one or more agreements with the municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (4).

41. (1) As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land be conveyed to the municipality for park or other public recreational purposes.

(2) For the purposes of subsection (3), "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.

(3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), in the case of land proposed for development or redevelopment for residential purposes, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law.

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless the municipality has an official plan that contains specific policies dealing with

the provision of lands for park or other public recreational purposes and the use of the alternative requirment.

(5) Land conveyed to a municipality under this section shall be used for park or other public recreational purposes, but may be sold at any time.

(6) The council of a municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of such conveyance and for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or, where more than one building permit is require for the development, as of the day before the day of the issuance of the first permit, and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of the Expropriations Act, determine the value of the land.

(7) The provisions of subsection 50(12) apply with necessary modifications to all moneys received under subsection (5) or (6).

(8) Where land has been conveyed to a municipality for park or other public purposes or a payment of money in lieu of such conveyance has been received by the municipality pursuant to a condition imposed under this section or under section 50 or section 52 or under a predecessor of any of such sections, the conveyance or payment, as the case may be, shall be included in determining the amount of land or payment of money in lieu thereof that may subsequently be required under this section on the development, further development or redevelopment of the lands or part thereof in respect of which the original conveyance or payment was received.

(9) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money in lieu thereof that may subsequently be required, as mentioned in subsection (8), either party may apply to the Municipal Board and the Board shall make a final determination in the matter.

Discussion of Changes in The Planning Act Introduced by Bill 159:

The New Planning Act (Bill 159, August 1, 1983) has introduced important changes and additions into the planning legislation.

1. Site Plan Control

The new Site Plan Control section (Section 40) will be delayed one year to give municipalities time to make the necessary preparations for its implementation. Please refer to Cathie Macdonald's report to Land Use Committee (April 12, 1983) entitled 'Implementation of The New Planning Act by the City of Toronto' for a detailed discussion on the new legislation.

2. The Conveyance of Land for Park Purposes

The New Planning Act (Bill 159) allows Council to require the conveyance of land for park purposes in an amount not exceeding 5 percent of the land proposed for development or redevelopment for residential purposes and 2 percent for commercial and industrial purposes, or at a rate of one hectare for each 300 dwelling units or less, provided that the appropriate official plan statements regarding the provision of land for park purposes have been approved by the Minister. Alternatively, Council may now request that it receive the cash equivalent of the value of the land proposed for park purposes in lieu of the conveyance of land. The funds accumulated in this way are to be placed in a reserve fund for the acquisition and improvement of park land throughout the municipality, although political expediency would dictate that the funds remain ear-marked in some way, and if possible spent in the same neighbourhood from which it originated.

By-law 584-76 (A by-law to require the conveyance of land for park purposes), was passed by Council on November 10, 1976 but was later repealed on October 28, 1978. The April 14, 1982 report to Neighbourhoods Committee titled "Developers' Contribution Towards the Purchase of Parkland" explains fully the reasons for the repeal of the by-law at that time. The proclamation of the new Planning Act in August, 1983 has now re-instigated many f the reasons for concern expressed in 1978. In the report to the Neighbourhoods Committee several recommendations are presented for consideration by Council in light of the provisions of the new Planning Act:

"1. That the City Solicitor be requested to draft a by-law to implement Section 41 of The Planning Act within all portions of the City of Toronto.

2. That it be the policy of Council to request cash in lieu of a conveyance unless the conveyance would result in the

deeding to the City of a minimum surface area of 1 300 square metres, or where the conveyance of land would facilitate the development of pedestrian ways, bicycle routes or existing or proposed park space, in accordance with policies and plans adopted by Council.

3. That it be the policy of Council, upon proclamation of Section 42 of the new Planning Act, to extend the coverage of the by-law adopted pursuant to Recommendation 1 to include commercial uses.

4. That it be the policy of Council that the monies collected pursuant to Recommendation 2 be used in addition to monies which are normally allocated to the capital budget for parks acquisition to acquire and improve parks throughout the City; and

5. That the Commissioner of Planning and Development and the Commissioner of Parks and Recreation be requested to review the Official Plan statements with respect to parks policy to ensure that they are consistent with the City's acquisition program and Recommendations 1 and 2."(12)

Recommendations 2, 3 and 5 warrant further discussion:

Recommendation 2

The decision to accept or reject land for conveyance purposes should not be overly concerned or biased by the particular dimensions of the parcel. Instead attention should be focussed on the value of this land, given its location, size, surrounding context, link in the overall system, etc. as a useable public open space. Each land parcel must be examined on its own merits. Council should always be willing to accept cash-in-lieu for parcels of land that are not suitable nor desirable from a planning perspective.

Recommendation 3

This statement should be expanded to include industrial land uses as the new Planning Act allows. It will become particularly important to do so if the percentage allowed for conveyance for commercial and industrial land uses is raised to 5 percent.

Recommendation 5

The Ministry of Municipal Affairs and Housing has prepared several questions for the benefit of municipal councils when they are reviewing their official plan statements regarding the conveyance of land for park purposes. Consideration of the issue raised by the following questions may assist Council in this task:

> "What parts of the municipality are deficient in what type of parkland and what are the municipalities' priorities in providing new parkland?
>
> What parkland conveyance standard(s) will be used?
>
> Will the conveyance standard vary according to different types of development, and in what way?
>
> Will the conveyance standard be applied to mixed use developments, and on what basis?
>
> Is the conveyance standard applied differently to senior citizens housing? Non-profit housing? The renovation of sub-standard housing? The conversion or deconversion of large older homes? Municipalities should proceed with caution to ensure that publically supported specialized housing, or economically marginally private

> projects are not unduly constrained by requirements designated for large scale developments.
>
> What are the physical site and locational criteria to be applied in negotiating with developers on parkland conveyances? For example: proximity to the population being served, schools and community centres; accessibility by private and public transit; topographical suitability of the site; and compatibility with adjacent uses.
>
> Municipalities should specify the circumstances under which a combination of land and cash-in-lieu will be accepted and the formulas which will be applied."(3)

In addition to the above questions, Council should consider how it will determine the value of the cash-in-lieu payment. Will it use the area percentage method, a density-based standard or some other method of calculation?

3. Parkland Dedication Calculation:

Section 41(8) and (9) of the new Planning Act have cleared the ambiguities that existed in the event of rezoning of land that had been part of a parkland dedication calculation. Now, the municipality shall include the land that has been conveyed or a payment of money in the total park and dedication calculation of the development, further development, or redevelopment of the land. So, for example, if an area of single family dwellings which was part of an approved plan of subdivision is rezoned to a medium or high density designation, the municipality shall include the value of the previous dedication in the new calculation for parkland conveyance in the higher density development.

It is generally recommended that in areas of medium and high density the calculation of parkland dedication should be derived from use of a density-based standard since this form of standard will yield a significantly greater amount of land for parkland than the percentage-of-land standard used by many municipalities.(4) If the City wishes to make use of the unit-count alternative provided in The Planning Act (up to 1 hectare per 300 dwelling units), this would require the adoption of an appropriate O.P. statement expressing Council's intention in this regard.

The City of North York has decided that in areas of higher density or redevelopment sites, it is not appropriate to exclude lands dedicated for park purposes from calculation of density. The planners expressed this opinion in their 'Background Report on Parks and Open Space' during the preparation of the 1980 North York Official Plan. They felt that the exclusion of land taken for park purposes from the overall density would "... be a much stiffer requirement than the imposition of a per suite levy as a cash-in-lieu policy and it would be unfair for a municipality to exact staff requirements from some developers while imposing lenient requirements on others".(5)

The Municipality of Metropolitan Toronto Act (R.S.O.1980, c.314)

Summary

The Municipality of Metropolitan Toronto Act defines the powers and concerns of the Metropolitan Corporation, of which the City of Toronto is a member municipality. This additional level of government provides the planning context that shapes the configuration of parks and open spaces that lie adjacent to and within the City of Toronto on a regional scale. Most importantly, Metro Council may pass by-laws for acquiring parks, gardens, squares, avenues and boulevards in the metropolitan area or other adjoining municipalities. It may assume lands as described above with the approval of the O.M.B., yet when this occurs, the Metro Council is not responsible to the area municipality for any damages or compensation. Metro Council also retains the powers of Section 40 of The Planning Act in regard to all lands lying within 150 feet of any Metropolitan road.

Excerpts

85. (1) The Metropolitan Council may by by-law empower the council of any area municipality to pass by-laws for the leasing or licensing of the use of the whole or any part of or all sidewalks and untravelled portions of Metropolitan roads within the area municipality for such purposes and upon such terms and conditions as are specified by the Metropolitan Council in the by-law.

86. The Metropolitan Corporation may by by-law authorize agreements between the Metropolitan Corporation and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highway upon such terms and conditions as may be agreed and for

contributing to the whole or any part of the cost thereof and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such considerations and upon such terms and conditions as may be agreed. R:S:O. 1970, c.295, s.85

87. The Metropolitan Council may plant trees on a metropolitan road and the cost of the work shall be deemed to be part of the cost of repairing and maintaining the road. R.S.O. 1970, c.295, s.86

91. (1) The Metropolitan Council has, with respect to all land lying within a distance of 150 feet from any limit of a metropolitan road, all the powers conferred on the council of a local municipality by section 39 of The Planning Act. R.S.O. 1970, c.295, s.90 (1); 1978, c.87, s.42 (3)204 (1) The Metropolitan Council may pass by-laws for acquiring land for and establishing, laying out and improving and maintaining public parks, zoological gardens, recreation areas, squares, avenues, boulevards and drives in the Metropolitan Area or in any adjoining local municipality in the County of Ontario or the County of Peel or in any local municipality in The Regional Municipality of York, and for exercising all or any of the powers that are conferred on boards of park management by The Public Parks Act. R.S.O. 1970, c.295, s.204(1)

207 (1) Where the Metropolitan Corporation has acquired land under section 206, the Metropolitan Council may agree to pay annually to the area municipality or other local municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes in the year of acquisition if the land were not exempt from taxation.

(2) Subsection 1 does not apply where the land acquired by the Metropolitan Corporation was acquired from the municipality in which the land was situate or from a local board thereof and at the time of acquisition was used as a public park, recreation area, square, avenue, boulevard or drive. R.S.O. 1970, c.295, s.205

208 (1) For the purposes of section 206, the Metropolitan Council may with the approval of the Municipal Board by by-law assume any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or in any local board thereof, and upon the passing of the by-law the public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in the Metropolitan Corporation.

(2) Where the Metropolitan Corporation assumes any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or local board thereof,

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of the property assumed. R.S.O. 1970, c.295, s.206(1,2)

THE CITY OF TORONTO ACT

Summary:

It is important to remember that the powers of a municipal corporation are not self defined but must be granted by the provincial government. The special legislation that enables the City of Toronto to pass by-laws, enter into agreements, issue debentures, etc. for municipal purposes is The City of Toronto Act.

This Act is really a series of provincial statutes which date from the beginning of this century, covering numerous municipal concerns related to public open spaces as follows:

Chronological Index to City of Toronto Acts 1911-1976

1911

- power to expropriate land on both sides in connection with opening of streets, etc.

1913

- agreement with R. Home Smith re: grant of certain lands for park purposes confirmed.

1914

- issue of debentures for parks and playgrounds.

1916

- issue of debentures for boulevards and drives.

1919

- trees, planting and trimming of highways: powers of Park Commissioner.

1925

- power to borrow for five year period for purchase of parks, playgrounds, etc.

1930

- borrowing powers for purchase of parks, etc.

1931

- street improvement schemes, advanced acquisition of lands authorized.

1933

- street building line defined.

1935

- parks: authority to pass by-laws and issue debentures for purpose of.

1939

- by-law 14913 re: noise.

1948

- St. Patrick's Square released from trusts as public square lands described.

1949

- street widening.

1952

pavements and sidewalks: widening as local improvements.

1959

- concessions in public parks.

1961

- parking lot, levy of cost against area.

1967

- pedestrian walks, agreements for

Excerpts:

I have included two examples of matters related to public open space that have required the City of Toronto to seek special legislation for provincial approval:

(1) In 1976 City Council sought the power to levy the costs or a portion thereof of a public park against a defined area that received special benefit from the park. A similar statute was approved in 1961 concerning parking lots.

(2) Later in 1979, after City Council had repealed the by-law that allowed the use of the 5% conveyance of parkland or cash-in-lieu provision of The Planning Act, a Private Bill "An Act respecting the City of Toronto" was approved. This Act authorized Council to refund money that had been paid to the City in lieu of providing a parcel of land for use as a public park.

CITY OF TORONTO OFFICIAL PLAN (PART I) STATEMENTS AND ZONING BY-LAW DEFINITIONS

Summary:

The following statements embody the intent and policy of Council that direct the decision-making process in matters concerning the planning and design of open space. The Official Plan and Zoning By-law contain numerous references to selected elements of a network of open spaces found throughout the city such as the ravines, waterfront, parks, pedestrian walkways in private developments, significant views and common outdoor space, amongst other examples. The existence of an open space network remains formally undelineated but nevertheless is addressed in isolation throughout these documents. The Official Plan is one of the most important vehicles available to Council to influence and direct future open space land use planning decisions since, although the importance of these statements (beyond their legal ramifications) is largely symbolic, they represent a public commitment to the goals and objectives of the plan.

Excerpts:

1A The Central Area (1)

Physical Form and Amenity

1A.40 (a) In order to conserve and strengthen areas with special identity and character, and to encourage in certain areas the development of a new identity and character, it is the policy of Council to designate

Areas of Special Identity. In such Areas, Council will employ its available powers to enact regulations, review plans and drawings, and make requirements so as to ensure that new development is consistent with the prevailing character, function and identity of the Area in which the development is to be located.

1A.41 (a) It is the policy of Council to encourage the retention, development, and enhancement of public streets and streetscapes which have well defined character, scale and enclosure, to ensure they are comfortable and convenient and offer varied activities and experience to pedestrians.

(b) It is the policy of Council to employ its available powers to enact regulations, review plans and drawings and make requirements so as to ensure that the form of development adjacent to public streets, the uses that development accommodates on levels at or accessible to the street, and access to these uses from sidewalks are such as to enhance the quality of the public street and streetscapes.

1A.43 Since significant views in the Central Area are an important element in its visual character, it is the policy of Council to define significant views by way of area studies, to encourage their preservation where land is developed or redeveloped and to use its available powers to enact regulations and review plans and drawings to secure the retention of such views.

1A.45 (a) It is the policy of Council to promote, in public and private development and redevelopment, the expansion of the number of walkways and an increase in the amount of space available to pedestrians in the Central Area. In doing so, Council will exercise its available powers to secure new facilities that offer amenity for the comfort, convenience and enjoyment of the pedestrian, and to ensure that existing walkways are improved.

(b) In areas of the Central Area where there is a high concentration of working, resident, and visitor populations, Council will give consideration to increasing the proportion of street allowances available for use by pedestrians, including sidewalks, landscaped and sitting areas, and other pedestrian amenities, thereby reducing the space available to vehicular traffic. In doing so, Council will consider the adequacy of the street system for essential vehicular traffic purposes, including goods delivery, public transit and taxis.

(c) In order to increase the amount of open space adjacent to pedestrian areas within the Central Core and in other appropriate parts of the Central Area, Council may pass by-laws requiring the provision of common outdoor space on lots in the Central Area which are developed or redeveloped, in whole or in part, for non-residential purposes.

1A.46 (a) Council will regard existing public streets and lanes in the Central Area, including lesser streets and lanes which exist within City blocks, as important assets in the provision of present and future access and amenity for pedestrians and, where appropriate, for vehicles. Accordingly, it is the policy of Council that public rights-of-way in the Central Area, including lesser streets and lanes, will generally not be sold or leased, except where the following conditions are fulfilled:

(i) the City obtains in return the ownership of the effective public right of use of at least an equal area at grade, or directly related to grade, for continuous use by pedestrians and by vehicle traffic where appropriate;

(ii) in the opinion of Council, the area which the City obtained serves at least as important a function as the land sold or leased by the City in providing needed and logical routes, having particular regard for the function of through-block access;

(iii) the area obtained by the City is either open to the sky or top-lit by natural daylight through a transparent glass roof;

(iv) the design and construction of the public right-of-way is satisfactory to the City; and

(v) the condition described in (i), (ii), (iii) and (iv) above are secured to the City by an appropriate legal agreement.

1A.46 (b) It is the policy of Council to improve the quality of lesser streets and public lanes in the Central Area as primarily pedestrian streets. This will be achieved through landscaping, paving and other public works, and by encouraging a high standard of design in adjacent development.

1A.47 (a) Since the emerging pattern of pedestrian walkways in private development is one of the major defining elements of urban form in the Central Core, and since the success of this pattern depends on the continuity of these walkways with each other and with the larger network of public sidewalks and streets, it is the policy of Council to promote:

(i) the extension where appropriate, of the system of pedestrian walkways in new development at ground level, above ground level and below ground level; and

(ii) the provision of areas bordering such pedestrian walkways which are diverse and comfortable in terms of activity and amenities for pedestrians.

1A.47 (b) In order to encourage the provision of pedestrian walkways within new developments in the Central Core and in other appropriate parts of the Central Area, Council may pass by-laws excluding that portion of a building used for interior pedestrian walkways which provide connections between streets, parks, subway stations and/or common outdoor spaces, from the calculation of the permissible residential gross floor area in Residence Areas, of the permissible non-residential gross floor area in Low Density Mixed Commercial Residential Areas, and of the permissible commercial gross floor area in other Areas or Districts.

(c) It is the policy of Council to encourage the frequent interconnection of walkways provided above or below ground level with those at ground level in the development of pedestrian walkways in the Central Core. Council will seek to ensure that in developments which provide pedestrian walkways above or below ground level, the ground level pedestrian realm is active, comfortable and diverse.

(d) In enacting regulations and reviewing plans and drawings respecting development and redevelopment in the Central Core and in appropriate parts of the Central Area, Council will have regard to the physical form and amenity of such development and in particular, will consider the following:

(i) pedestrian walkways across and within developments at, above and below ground level; and

(ii) arcades and overhangs accommodating pedestrian walkways, transit shelters, access to subway stations and pedestrian connections between developments.

1A.48 In order to achieve an improved pedestrian environment at and around street level in the Central Area, Council will seek to ensure satisfactory conditions with respect to wind and calm, and sun and shade. In doing so, Council will seek to alleviate existing problems of high wind velocities and lack of sun in important pedestrian areas caused by the height or the inappropriate spacing or configuration of buildings, and to prevent the worsening of such conditions. In using its powers of regulation and review in implementing this Section, Council will apply objective standards to determine satisfactory conditions.

1A.49 It is the policy of Council to seek satisfactory noise conditions for residents, workers and others who use and enjoy the Central Area. In using its powers of regulation and review in implementing this Section, Council will apply objective standards to determine satisfactory conditions.

Parks, The Ravines, The Waterfront and The Railway Lands (1)

5.1 The Lakeshore, the Toronto Islands, the ravines and the escarpment north of Davenport Road are the chief natural features of the City. It is Council's policy that the use and development of these areas shall not prejudice their use for public recreation and enjoyment.

5.2 It is Council's policy that the Lakeshore, the Toronto Islands and the ravines, together with the other areas designated as open space on the Generalized City Plan Map form the major parks system of the City, containing regional parks and systems of district and local parks.

5.3 Council will develop or will encourage the development of the major parks system with continuous paths suitable for use by pedestrians, equestrians, skiers and cyclists, connecting the individual parks comprising the system. Council will seek the co-operation of private owners and of public authorities and agencies who own land in areas designated as open space to achieve the development of these continuous connecting links and paths.

5.4 The major parks system will be supplemented by the provision of local and district parks in locations other than those designated as open space on the Generalized City Plan Map in accordance with the policies contained in this section.

5.6 Where City owned park land is to be used for another public purpose, an equivalent area of land will be acquired. Preference will be given to acquiring such equivalent area of land in the immediate area but such area of land may be acquired at an alternative location which is deficient in parks.

5.7 (a) Except as required for other public purposes, publicly owned land in the areas designated as open space will be used only for park, recreational and ancillary uses.(2)

(b) Where any lands designated for open space are in private ownership, this Plan does not indicate that this land will necessarily remain as open space indefinitely, nor shall it be construed as implying that open space areas are free and open to the general public or will be purchased by any municipality. If proposals to develop any such lands that are in private ownership are made and a municipality does not wish to purchase such lands in order to maintain the open space, then an application for the redesignation of such land for other purposes will be given due consideration by the City, insofar as such redesignation is consistent with the policies of this Plan.(3)

The Ravines

5.8 It is the policy of Council that the ravines owned by the City remain in their natural state, and that Council encourage other public agencies owning other ravines in the City, to maintain them in their natural state, with such clearing, extension and improvement as is necessary for public recreation use.

5.9 Private lands in the ravines will be acquired as necessary for parks or the attainment of the policies set out in Section 5.3. Due notice of

Council's intention to acquire such land will be given to the owner thereof.

The Waterfront

5.11 The Eastern Beaches, the Toronto Islands, the Canadian National Exhibition Parklands and the Western Beaches shall be used only for park, recreational or ancillary uses.

5.12 No City owned land will be disposed of in the areas referred to in Section 5.11, and privately operated uses in these areas will be under public control.

5.13 Council will require the approval of plans for buildings and works to obtain harmony in the development of the areas referred to in Section 5.11.

5.14 Council will take any necessary steps to ensure that any land created by filling in Lake Ontario adjacent to the Lakeshore will be used only for parks, recreational or ancillary uses, and that no such filling is undertaken without regard to its visual effect on the enhancement of the Lakeshore and the public enjoyment of the Lakeshore.

5.15 Public access to parks located on the Lakeshore will be improved provided the appearance and recreational value of the Lakeshore will not be adversely affected, and provided such improved access does not adversely affect the use of adjacent residence areas.

5.16 It is the policy of Council that the Central Harbour be developed with residential, commercial, parks, recreational and public uses. Council will take any necessary steps to encourage the use of land created by filling the Lake adjacent to the Central Harbour for the aforesaid purposes.

5.18 It is the policy of Council that the Port, including any land therein created by filling, be developed for industrial purposes in accordance with the provisions of Section 4.34, and that the portion of the Port area designated on the Generalized City Plan Map as open space be developed for public use.(6)

Parkland and Recreation Space in the Central Core(12)

5.21 It is the policy of Council to ensure the provision of a system of adequate and appropriate parks in the Central Core for the use and enjoyment of its residential and working populations, and for others who use or visit the Central Core.

5.22 In determining the adequacy and appropriateness of parks in the Central Core, Council will have regard for:

(a) their distribution throughout the Central Core;

(b) their proximity to potential users;

(c) their location relative to the physical surroundings;

(d) the appropriateness of their size and design to anticipated activities throughout the year; and

(e) the degree of public involvement in their design.

5.23 (a) Council's short-term parks goals for the Central Core is the achievement of a basic parks system in accordance with this Plan by the end of the year 1985.

(b) In order to provide a basic parks system for the Central Core, it is the objective of Council to ensure that no places of employment or residence are further than 200 metres walking distance from either a local park or a district park.

5.24 It is the policy of Council to provide street parks in the Central Core.

5.25 It is the policy of Council to provide or seek the provision of appropriate pedestrian paths and cyclist routes in order that they may be easily viewed and perceived as being public. It is also the policy of Council that steps shall be taken to ensure ready physical access to such facilities to all members of the public, including children, adults, the elderly and the handicapped.

5.27 It is the policy of Council that the design of City parks in the Central Core shall accommodate the anticipated recreation activities of surrounding populations.

5.28 It is the policy of Council to ensure that local parks in the Central Core are sufficient in size to accommodate both active and passive recreational uses, including athletic facilities and playgrounds in areas where housing suitable for families with children is located.

5.29 It is the policy of Council to encourage the participation of anticipated users in the design of local and district parks in the Central Core.

5.30 (a) Council will review annually the progress of the City toward meeting its objectives for the achievement of a basic parks system for the Central Core. Council will establish annual targets for parks acquisition and development in the Central Core, in accordance with Map 7, Central Core Parks Development Program which forms part of this Plan.

(b) Notwithstanding the parks development priorities shown on Map 7, Council, by resolution, may adjust its priorities in order to ensure that an adequate parks system will be available in High Density Mixed Commercial-Residential Areas, in conjunction with the development of housing.

5.31 (a) In order to augment the City's park resources in the Central Area, Council will encourage the conveyance or lease to the City of land to be used for park purposes in excess of the amount of land which may be required to be conveyed to it under The Planning Act.

(b) Where the grantor or lessor of such land conveyed or leased to the City for parks purposes owns an abutting parcel which comprises a lot, Council may pass by-laws to permit buildings to be erected on the lot at up to the maximum density or densities that would have been permitted if the conveyance or lease of the land to the City had not been made and that land had been incorporated in the lot, provided that:

(i) the land which is conveyed or leased to the City to be used for park purposes is at least 1 300 square metres in size and is in excess of the amount of land which may be required to be conveyed to the City under The Planning Act;(13)

(ii) the conveyance or lease to the City of such land does not reduce the required amount of recreation space in relation to such buildings; and

(iii) the conveyance or lease provides that, where the land conveyed or leased to the City for parks purposes is no longer required by the City for those purposes, and where the lessor or a person deriving title through or under the lessor resumes possession or where the land is conveyed to the grantor or other person, such land shall be deemed to be incorporated into the parcel comprising the lot upon which the buildings referred to in this Section have been erected, for the purpose of calculating the maximum permissible density of the buildings on the lot.

5.32 It is the policy of Council that monies raised from payments in lieu of the conveyance of land for parks purposes as a condition of the development or redevelopment of land in the Central Core for residential purposes, and grants from other levels of government made in connection with the development of new housing in the Central Core, where such grants may be used for the purpose of acquiring or developing parkland, shall be spent exclusively for the purpose of acquiring or developing new parkland in the Central Core.

5.33 It is the policy of Council to review the performance and utilization of the basic parks system for the Central Core as it is developed according to this Plan. Council will undertake studies, based on this review, in order to define a long-term parks system for the Central Area with a view to adopting a program before the end of the year 1985 for the achievement of such a system.

Zoning By-Law Definitions

"Shared recreation space" means recreation space provided within or outside a building for the use of the residents of such building for recreational or social purposes, and includes a landscaped area, garden, terrace, outdoor swimming pool, outdoor games or play area, tot lot, covered sitting area, indoor swimming pool, sauna, shower and change room, exercise room, hobby room, workshop, lounge or a meeting room".

"Common outdoor space" means any paved, sodded or landscaped area which:

(i) adjoins, and is directly accessible from, a street, park or other public area, a pedestrian walkway on a lot, or a pedestrian walkway within a building on such a lot;

(ii) is open to the sky or is covered by a structure or any portion of a building but not located within a building;

(iii) is located within 2 metres of a grade and is accessible therefrom by means of a stair or ramp;

(iv) is not narrower than 2.5 metres for an area covered by a structure, and not narrower than 3 metres for any other area; and

(v) is not used for the purposes of a driveway, vehicular ramp, loading or servicing area, outdoor storage area, motor vehicle parking area, or stairs or any portion thereof where the treads of such stairs are less than 1.5 metres in width.

"Landscaped open space" means open unobstructed space on a lot which is suitable for the growth and maintenance of grass, flowers, bushes and other landscaping ... and includes (i) any surfaced walk, patio or similar area; (ii) any tennis or badminton court or other similar sports or recreational area and (iii) any swimming or decorative pool, but does not include any driveway or ramp, whether surfaced or not, any curb, retaining wall, motor vehicle parking area or any open space beneath or within any building or structure.

"Public park" means land which is used for public recreation and which is owned by or leased to a government or a government authority or agency.

"Street" means a public highway or private thoroughfare.

FOOTNOTES

1. Park levies have been used by many municipalities in the past to receive additional land and funds for park purposes. Generally, the use of levies has been discouraged because their application discriminates between existing and new developments, although both types may generate significant increases in demand for park facilities. Prior to the proclamation of Bill 159, municipalities such as the City of North York applied per suite levies in cases where the parkland dedication had been previously applied and was not available for use in the rezoning application.

2. City of Toronto Planning and Development Department. "Developers' Contribution Towards the Purchase of Parkland". Report to the Neighbours Committee, April 14, 1982, p.7-8.

3. Ontario. Ministry of Municipal Affairs and Housing. "Parkland Dedication: A Guideline on Section 35b of The Planning Act". p.5.

4. Ontario. Ministry of Culture and Recreation, Sports and Fitness Division. Guidelines for Developing Public Recreation Facility Standards. p.72.

5. City of North York Planning and Development Department. "Background Report on Parks and Open Space", Official Plan Background Studies. p.22.

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CHAPTER II: SITE PLAN CONTROL AND RELATED PUBLIC OPEN SPACE NEGOTIATION OPPORTUNITIES

SITE PLAN CONTROL AND RELATED PUBLIC OPEN SPACE

NEGOTIATION OPPORTUNITIES

INTRODUCTION

Prior to December, 1973, the City could take advantage of only two opportunities to negotiate with developers to provide public open space and other amenities:

(1) when the City owned a piece of land, (a road allowance, for example) that was needed by a developer to form a comprehensive site for development; and

(2) when the developer required approval of a rezoning application.

In the first situation, the City would act as a partner/part-owner in the development project and sign an agreement with the developer re: the sale or transfer of land that achieved certain public benefits. So, for example, the City would sell or trade the road allowance in exchange for land suitable for a park or the provision of some other pedestrian amenities. In the event of a rezoning application the City officials had considerably greater clout and success in achieving their public objectives as part of the approval process. An amendment to The Planning Act in 1973 which allows Council to designate Areas of Site Plan Control has significantly expanded the negotiation powers in areas of the City where an additional level of control beyond the requirements of the general zoning by-law is required. This section will describe the procedures and benefits of the development review process as a negotiation tool. Related approvals involved in the closing of a lane or street, condominium applications and construction/improvements within the street allowance are also briefly reviewed. Lastly, this section will examine some of the extra-statutory techniques commonly used by municipalities in Ontario in their efforts to control selected aspects of a development proposal.

SITE PLAN CONTROL

Description

Site Plan Control or Development Review is the power to review development proposals on an individual site by site basis and to impose conditions, in addition to the level of control on land imposed by the general Zoning By-law (No. 206023).

Site Plan Control does not allow the City to grant variances from the requirements of the Zoning By-law but may impose physical conditions that are more restrictive. An amendment to The Planning Act in 1973 allows Council to designate "Areas of Site Plan Control", if this action is supported by an appropriate Official Plan statement. A Site Plan Control Area By-law does not require the approval of the Ontario Municipal Board nor a public meeting prior to its implementation. The developer may have final recourse to the O.M.B. if the decision of Council is found to be unsatisfactory. This helps to reduce the likelihood of Council or staff making arbitrary decisions.

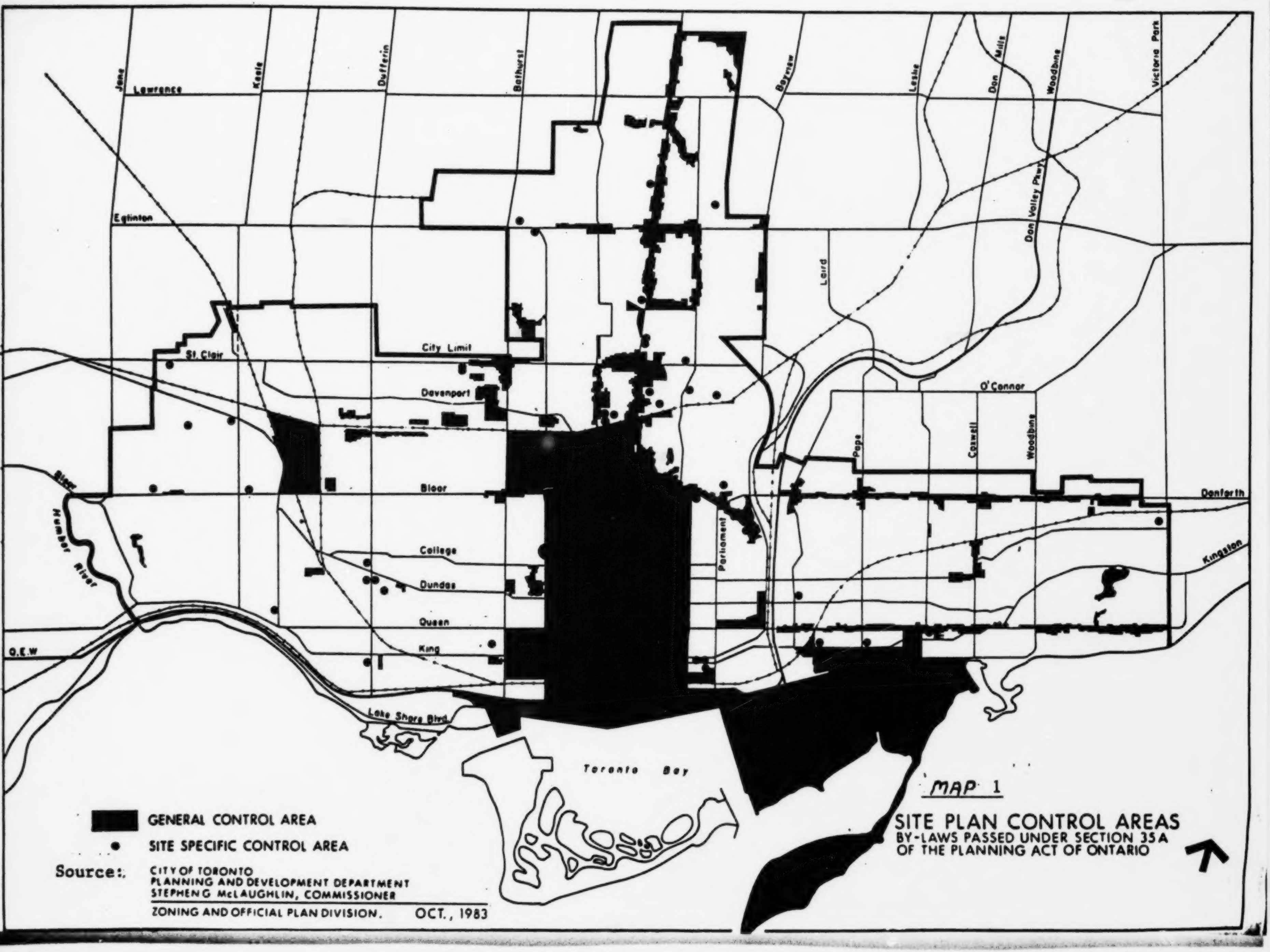
Those matters which can be the subject of development review are found listed in Section 40 of The Planning Act(1). This Section allows for the approval of the design of the layout of exterior and interior areas that because of their location in practice may be used by members of the public. See Sections 40(4)(b), (c) and 40(7)(a)(4), in particular. It is important to understand that although the City may review the design of areas to which the public has access, it can not legally require public access onto private land. The City would face liability charges unless the owner agrees to allow public access to his lands. If the City could enforce public access to private land, it would have a severe impact on the rights of private property owners since there is no way to extinguish the public right to access except if a particular right-of-way is not used publicly over a long period of time. The legal right of access may be granted voluntarily or acquired through the active continuous use of an easement for over twenty years. Therefore planners of open space must focus their attention on the useability of spaces that due to their design, layout, or location will serve a public function. For example, Section 40(7)(a)(6) requires that prior to the approval of landscaping plans, all "walls, fences, hedges, trees, shrubs, or other ground cover or facilities for the landscaping of the lands or the protection of adjoining lands" be shown on the plans and be provided by the developer at no expense and to the satisfaction of the municipality. Obvious barriers to public access such as fencing can be avoided through careful scrutiny of the landscaping plans in the development review process.

The Development Review By-law (No. 614-79) was passed by the City of Toronto Council in July, 1979 to legally implement the provisions of Section 40 of The Planning Act. It is necessary to implement these powers by by-law to enforce the legal agreements entered into through the development review process. This restriction makes it highly unlikely that the site plan control label will be removed once an area has been so designated. Good reasons are needed to support the application of a Site Plan Control Area designation. These are discussed in detail in the report to the Land Use Committee titled "Criteria for Establishing Future Areas of Site Plan Control" submitted to the committee on March 29, 1982. There are about 25 area by-laws and merous site-specific by-laws now in effect within parts of the Central Core, Waterfront, growth nodes of the City such as the Yonge/St. Clair area and other locations as shown on Map 1.

Standard Procedure

An excerpt from 'A Description of the City of Toronto's Development Control System'. See the accompanying flowchart of this procedure (figure 1).

> "Application is made by submitting plans to the Commissioner of Planning and Development which are then assigned to the Zoning and Official Plan Division for processing. Normally, the plans are circulated to three departments for comment: Buildings (regarding general compliance with the Zoning By-law); Parks (regarding landscaping) and Public Works (regarding parking, access and servicing matters). Other departments are involved on special occasions, such as the Metropolitan Department of Roads and Traffic for projects abutting Metropolitan Roads. The Zoning Division consults the planner responsible for the area in which the project is



MAP 1

SITE PLAN CONTROL AREAS

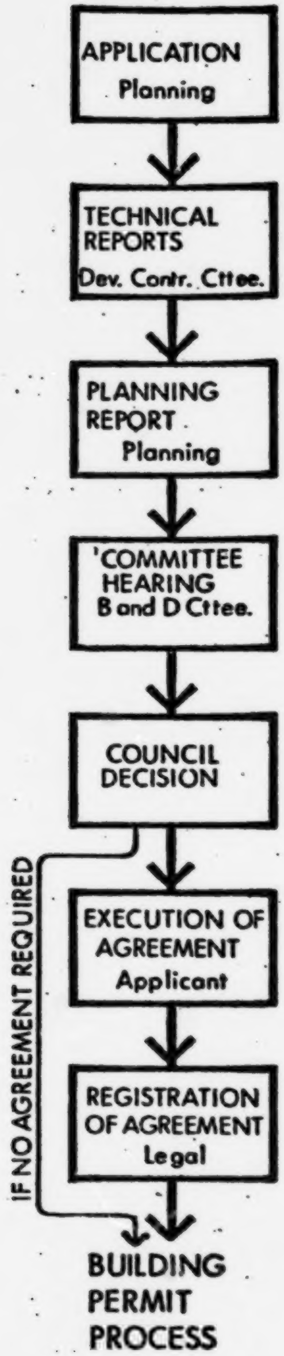
BY-LAWS PASSED UNDER SECTION 35A
OF THE PLANNING ACT OF ONTARIO

■ GENERAL CONTROL AREA

● SITE SPECIFIC CONTROL AREA

Source:
CITY OF TORONTO
PLANNING AND DEVELOPMENT DEPARTMENT
STEPHEN G. McLAUGHLIN, COMMISSIONER
ZONING AND OFFICIAL PLAN DIVISION. OCT., 1983

FIGURE 1 : THE DEVELOPMENT REVIEW PROCEDURE



Source: *A Description of the City of Toronto's Development Control System,* p.11

located in regard to local conditions and planning objectives; discussion may take place at this point with community spokesmen if the project is of local interest or significance. The Zoning Division also circulates a bi-weekly list of applications to various parties including the Ward Aldermen and the Historical Board.

Interdepartmental matters of a procedural or technical nature regarding these applications are discussed at the Development Agreement Review Committee, which consists of representatives of the departments involved, chaired by a member of the Planning Department. Further discussions on specific technical problems are held as required with the applicant and the officials concerned.

On receipt of all comments and written reports from the departments involved and on resolving as far as possible any technical problems, the Zoning Division prepares a full report on the application setting out the recommended terms for a development agreement. When this report is available, the Buildings and Development Committee considers the proposal and hears from the applicant. The decision of this Committee is forwarded via the Executive Committee, to City Council for approval.

If City Council approves the development review report, the Legal Department drafts the necessary agreements in consultation with Planning and with the Survey Staff in Public Works who provide the site descriptions. This agreement is then submitted to the applicant for signing and, when executed, is registered by the Legal Department on title. Generally, detailed review of the building permit application has already begun by this stage; the permit, however, cannot be issued until the agreement is registered and the relevant terms of the agreement complied with.

Further processing may be involved in some instances. If the agreement calls for certain drawings to be prepared for the City's approval, these must be reported to Council for its decision. Changes to the project during the building permit examination phase or once it has been erected may also require amendment to the original development agreement. If so, additional reporting and legal work will be necessary."(2)

OTHER DEVELOPMENT-RELATED NEGOTIATION OPPORTUNITIES

The following development-related activities may also provide Council with an opportunity to negotiate for additional public amenities or to review a project which normally would escape comment due to its compliance with the zoning by-law. Excerpts from 'A Description of the City of Toronto's Development Control System' follow:

"Closing of a Lane or Street

The main purpose of seeking a street or lane closing in conjunction with a development project is to consolidate separate parcels of land into a single development site. In other cases it is requested in order to expand a site or remove irregularities. Recent examples include the closing of Pearl Street in conjunction with the second phase of First Canadian Place and the closing of Hayter Street in conjunction with the second phase of the Toronto College Street development.

Application is made to the Commissioner of Public Works and processed according to the regulations of the Municipal Act. Approval is required from City Council, from the owners of the properties adjacent to the portion of the street to be closed or narrowed, and from the Ministry of Housing if a street narrower than 66 feet is to be created. On approving the closure, Council may decide either to lease the land or to convey it to the applicant in return for a cash payment, an exchange of land or other benefit.

Although the approval of the street closing and of the development proposal are separate matters, they are in practice interrelated. The street closing can involve extensive negotiations with the City, not only regarding the terms of sale or exchange but also regarding the form of the development as a whole. On the other hand, the development itself may not be able to proceed until the street or lane has been closed and the consolidated development site created.

Plan of Condominium

In order to establish a condominium, it is necessary to submit a plan of condominium to the Minister of Housing for approval. In processing these applications, the Minister seeks the City's comments on any conditions which should be imposed. Where the proposed condominium involves an existing rental building or a new building which has already been subject to City review by way of a rezoning or development review application, the condominium application does not raise new development control issues. Condominium applications can, however, provide the City with the opportunity to review those new residential developments which, by virtue of their compliance with the Zoning By-law and their being outside the development review area, would not otherwise come before the City.

On receipt of a condominium application, the Ministry of Housing requests the City's comments from the Commissioner of Planning. The application is then circulated for comment to the Technical Planning Committee and to other relevant departments and agencies. These comments, including any development control matters in the case of new residential projects not already reviewed, are incorporated into a final planning report recommending the conditions that should be imposed by the Ministry. On receipt of this report, the Buildings and Development Committee considers the application and forwards its decision, via the Executive Committee, to City Council. Following Council's decision, the Commissioner of Planning reports Council's recommended conditions of approval to the Ministry via the Metropolitan Toronto Planning Department.

When the Ministry of Housing has considered the matter and decided which conditions to impose, it so informs the City. The City Solicitor generally co-ordinates work on implementing the City's conditions, preparing any required agreements and arranging with other departments for the payment of any charges. Once the conditions have been fulfilled, the Ministry of Housing is informed and issues a consent to the applicant to register the condominium plan.

The registration of a condominium plan is not a condition on the issuance of the building permit for a new residential development. In fact, the condominium plan is often not settled until after the buildings is well under construction.

Construction/Improvements within the Street Allowance

Any construction within a street allowance requires the permission of the Commissioner of Public Works in the case of City streets, or the Metropolitan Commissioner of Roads and Traffic in the case of Metropolitan streets. A certain amount of work may take place within the street allowance as part of the construction process, for example the shoring of excavations and the erection of hoardings or protective sidewalk canopies. Permits for this work are routinely handled as part of the building permit process.

A development proposal may involve permanent or semi-permanent construction within the street allowance which require separate application and approval. These include the placing within the street allowance of sidewalk displays, marquees or cafes; the erection of canopies or projections over the street allowance; and the construction of a bridge over or a tunnel under the street to connect with another development. In all these cases, review and approval is handled by the Public Works Department. This work is generally supplementary to the main development project and can be done after the project is built."(3)

Recently a standard recommendation for collateral agreements as they relate to improvements to the street allowance has been adopted as follows:

> "That the City Solicitor be authorized to prepare a collateral agreement between the City and the owner, to give effect to the following:
>
> (i) that the owner agree to pay for improvements to (the public sidewalk/boulevard) generally as shown on drawing -- attached to this report, and
>
> (ii) that the owner agree to submit an application for such improvements to the Commissioner of Public Works and carry out the improvements to the Commissioner of Public Works and carry out the improvements within a reasonable period of time or make a cash contribution to the City equal to the value of the improvements for the Commissioner of Public Works to undertake the improvements as part of an overall project."(4)

There is clearly some risk that should be noted by the use of collateral agreements since this form of agreement is not binding against successors in title. The collapse of a collateral agreement will not, however, destroy the authority of the accompanying development agreement governing those features of the development allowed under Section 40 of The Planning Act. It has been suggested by Mr. Dennis Hefferon of the Legal Department that agreements regarding street improvements by developers on public land should be tied in with the terms of the development. He has also stated that there is no way to enforce a long term maintenance agreement.(5)

The Construction Lien Act:

The Construction Lien Act has recently been enacted by the Ontario Legislature. It replaces the provisions of The Mechanics Lien Act governing all construction contracts entered into after April 2, 1983. A detailed discussion of the trust and holdback obligations imposed on the City under the provisions of this Act when it enters into a construction contract are provided in correspondence to Mr. George H. Clarke, Commissioner of Finance from the City Solicitor, dated April 7, 1983. A new provision of the Act respecting public streets warrants particular attention as described by the City Solicitor: "If a developer improves land dedicated as a public street at no cost to the City, the City is, nevertheless, liable to persons having liens for an amount up to the holdbacks which the City would have been required to retain if the improvements were made at its expense. Therefore the City must inform itself of the price of the services and materials to be supplied to the improvement in order to calculate the holdback. The City must then obtain appropriate security, such as a labour and material payment bond, to guarantee payment of the holdback amount."(6) As the comments in the letter suggest, perhaps it would be advantageous to let developers pay the City to do the work itself and avoid some of the potential administrative legal entanglements of this Act.

BENEFITS OF THE DEVELOPMENT REVIEW PROCESS

The main benefit of the Development Review process is that it provides an opportunity for discussion between the developer and City Council. It provides for face to face and informal exchange between the negotiating partners which increases the likelihood that the final design agreed upon addresses those issues of concern to the general public in an appropriate way. It is also an opportunity for the planning staff to express opinions and concerns early in the process hopefully before plans are finalized and a commitment to one single design concept is made by the investor.

In addition, as Arthur Sissons has suggested in conversation and in his discussion paper "The Development Control Process", these informal meetings allow planners to convey the meaning of the "qualitative" matters related to design and planning that ".. would not be conveyed or would be more difficult to convey, if the applicant for a building permit was not given the opportunity to discuss his proposal at an early stage with the Planning staff."(7)

Both Mr. Dennis Hefferon and Ms. Pat Foran advised that in order to avoid problems such as those encountered in the negotiations for the College Park development, the City Solicitors should become involved at the opening of negotiations for new projects when the terms of reference may not yet be fully understood. They suggest that once these conditions or parameters for discussion are settled, then the input of the legal staff can be reintroduced into the process at a later stage.(8)

EXTRA-STATUTORY DEVELOPMENT APPROVAL TECHNIQUES

- excerpt from D. Hefferon, Osgoode Hall law course materials on Urban Land Use Planning:

> "To retain discretionary control over site development at the time of construction municipalities have fashioned a variety of techniques to accompany the enactment of the by-law amendment. A combination of these techniques may be used; it is important to know the legality of each technique and to be able to evaluate the costs and benefits of each.
>
> 1. The Development Agreement Technique
>
> This technique is in very common use in Ontario. As a condition of enacting the amending by-law, the municipality will require the landowner to enter into an agreement setting out in detail the exact arrangements that are being made for the proposed development. Architectural drawings of the building or structure and site-plan lay-outs may be attached to the agreement. Financial obligations of the developer vis-a-vis the municipality, regarding hard and soft services, dedication of land for park purposes, etc. may be spelled out in the agreement.
>
> One advantage of the development agreement technique is its relative flexibility; when development does actually take place and parts of the agreement turn out not to be acceptable, the agreement can be amended by bilateral action of the parties without Ontario Municipal Board approval. Keep in mind, however, that the intial zoning amendment by-law needs the Board's approval, as will any amendment to it.
>
> Anything so attractive must also have drawbacks. First, it was arguable that such agreements are ultra vires the municipality. Any agreement must meet the common law requirements of contract law; additionally the municipality must have the legal capacity to enter into it.

Second, such agreements would not run with the land so as to bind successors in title, despite a clause in the contract expressing such intent, unless the technique requirements for a restrictive covenant are met or unless Section 40 of The Planning Act is utilized.

2. The Site Plan By-law Technique

Using this technique, the municipality's aim is to put as much as possible into the amending by-law by way of condition and tight limitation of permitted uses. Elevation drawings of the proposed building, a site or lot plan and even a schedule of materials will be incorporated into the by-law which will permit development only in accordance with them. For example, the by-law may state that only if the exact building proposed in accordance with the attached site-plan is built, will the zoning of the land be effectively amended.

There are distinct limitations to this technique. For one thing, if changes become necessary, the plans can only be altered by amendment to the by-law which would require Ontario Municipal Board approval, with its attendant delay of six months to one and a half years or more. A minor variance where such is appropriate legally, may be granted by the Committee of Adjustment, but can also involve costly delay.

The site plan by-law approach is subject to a number of other criticisms. It is rigid; each provision must meet the legal test of certainty; the terms of the by-law cannot infringe the anti-delegation rules; and each provision of the by-law must be supported by a specific provision in the enabling legislation, i.e. Section 39 of the Planning Act.

It must be noted, however that the by-law will bind whoever is on the land, whereas a development agreement which is not made pursuant to Section 40 will not run with the land so as to bind successors in title. In summary, although the site-plan by-law is more rigid and needs explicit authority for each provision, it is still a safer approach for the municipality than the use of an agreement if the ownership of the land is likely to change.

3. The Site Plan Approval (Site Plan Agreement) Technique

This has been in wide use in southern Ontario and especially in Metropolitan Toronto for a number of years. A statutory basis for this procedure was established in late 1973 with the enactment of Section 40 of The Planning Act. However, the extra-statutory technique is still in wide use despite the enactment of Section 40.

Under the extra-statutory technique, the developer enters into a written agreement to apply for site plan approval immediately before he applies for a building permit as a condition of the enactment of an amending by-law or one thawing the "chill" on development of his site. Thus, the municipality achieves control at the most crucial time: immediately before construction is to commence. At that time ordinarily the developer's plans are firm and his financing has been arranged.

The typical extra-statutory site plan agreement only requires that the owner make application for approval before he seeks his building permit. With a view to binding successors in title, the municipality will register the agreement against the land, and it will express the parties' intent that it run with the land so as to bind successors. Only rarely will the agreement meet the requirements for the creation of a restrictive covenant, however. Simply to register the agreement against title does not mean that it runs with the land, since the requirements of the law of restrictive covenants must be met.

Note that when this technique is used, assuming it to be effective, the municipality has not released total control of the site by enacting the amending by-law to free the land from a holding zoning or to change the zoning. The site plan agreement is made as a condition of the enactment of the amending by-law.

Whether a municipality has the legal capacity to enter into such site plan agreements and whether the agreement displays the requisite mutuality are unresolved but important questions.

Further, the legality of the site plan approval procedure where the power to approve has been delegated to an official or a planning board or committee, has not been tested in the courts.

Undoubtedly, the absence of litigation of these questions is due more to a lack of desire on the part of developers who are eager to proceed when approval is sought rather than to the reasonableness of the municipalities' requests. The delay associated with litigation evidently imposes unacceptable costs. The procedure then, remains extra-statutory, but in common use.

In practice, site plan agreements are not endorsed by the courts, in the event of non-compliance, but by mortgage lenders who demand compliance prior to making mortgage advances. Conventional building mortgages ordinarily give the mortgagee absolute discretion over advances to be made. Thus the developer/mortgagor has no legal remedy against a lender's refual to make advances. There is then a potential for substantial abuse of discretion by the planning board or municipal council in requiring dedication, building and site plan adjustments as a condition of approval."(9)

FOOTNOTES

1. See Bill 159 excerpts, p.39.

2. Development Control Task Force. A Description of the City of Toronto's Development Control System. p.10-11.

3. Development Control Task Force. A Description of the City of Toronto's Development Control System. p.21-22.

4. See City of Toronto Planning and Development Department report to Land Use Committee on June 29, 1983 entitled 'Collateral Agreements as They Relate to the Street Allowance'.

5. Notes from meeting with Mr. D. Hefferon on August 8, 1983.

6. Correspondence to Mr. G. Clarke, Commissioner of Finance from the City Solicitor, re: The Construction Lien Act, 1983. dated April 7, 1983. p.3.

7. Sissons, A., "The Development Control Process", p.11.

8. Notes from meetings with Ms. P. Foran on July 5, 1983 and Mr. D. Hefferon on August 8, 1983.

9. Hefferon, D., Land Use Planning, Volume 1. Cases and Materials: 1982-1983. p. 4.7.1. - 4.7.13.

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CHAPTER III: TECHNIQUES FOR PRESERVING PUBLIC OPEN SPACE: ACQUISITION ACCESS AND CONTROL

TECHNIQUES FOR PRESERVING PUBLIC OPEN SPACE: ACQUISITION, ACCESS, AND CONTROL

INTRODUCTION

The preservation of public open space in built-up areas is a task of increasing difficulty that requires a flexible and imaginative approach. The rapid escalation of land values in downtown Toronto has curtailed the use of the purchase option as the primary strategy. However, under certain circumstances, the outright purchase of land at market value may not be in the best interests of the public. In areas of shifting segments of the population where open space/recreational needs are rapdily changing or unknown, for example, the purchase of leases for open space access may represent an adequate immediate response before further study is completed or action contemplated.

Figure 2 lists several open space preservation methods available for consideration. It is important to keep in mind when reviewing the techniques discussed below that the general public's experience of open space, and therefore their main concern, is not focussed on questioning who owns or controls a particular site, but whether or not the space is accessible and congenial.

ACQUISITION TECHNIQUES

Purchase of the Fee Simple

It cannot be stressed enough that the purchase of the land outright - or of the fee simple is the *best* method to preserve and improve public open space. This method provides the City with absolute control over the future use of the land and provides, except when city-owned parcels of land are sold, the community with stable parkland and vegetation that is able to achieve a level of maturity and beauty (i.e. High Park) that only time can provide. This is expensive and costs will continue to rise. In addition, once land is purchased for public use, it is removed from the property tax rolls and the costs of maintenance must be borne by the municipal government.

Purchase and Leaseback

This technique requires that the municipality purchase land outright and then lease the premises to a tenant. In this way, the municipality retains control over the land and receives rent to help offset the cost of acquisition. The main disadvantages are that (a) the capital has to be put up all at once; and (b) public access to the land is delayed until the end of the tenant-occupancy period.

Purchasing of Options

This delayed acquisition technique is usually employed by planners in rural areas where the municipality wishes to purchase a large parcel of land from a landowner, however it may also be useful when purchasing land of high value in built-up areas. The municipality offers to buy portions of the land annually at a predetermined price until the entire site is owned. This procedure is advantageous to both parties involved. The owner receives payments over a longer period of time and does not have to pay local taxes. The municipality purchases the land over time at a set price and is given ample time to raise funds for the purchase. This method is secured by legally binding agreements. The municipality is committed to the purchase and difficulties could arise if the transaction could not be completed for one reason or another. The land is removed from the tax rolls but the owner is responsible for annual maintenance until the transaction is completed. The purchasing of options does not in itself protect the land and public access is delayed.

Purchase/Gift with Life Tenancy

Purchase:

This is another delayed acquisition technique which helps to lower the costs of acquisition. An agreement is made to purchase land with the condition attached that the owners may continue to live on the land for a predetermined number of years. This can become legally expensive since the nature of the agreement necessitates a complete and thorough title search. The main advantage is the lower acquisition costs of the fee simple.

Gift:

Private land donations may be made to the municipality with the same agreement for life-time occupancy. The municipality acquires land essentially for the price of the property taxes. The vendor receives tax deductions and community appreciation. Land offered to the City as donations should be carefully scrutinized for suitability for eventual use as parkland/open space because the local community will not approve of the sale of these lands on the private market at a later date.

Trade or Transfer

In or near the City of Toronto there are numerous parcels of land owned by the federal, provincial and other municipal governments that may have recreation potential. Such lands should be identified and negotiated for. Properties could be traded or transferred between levels of government with little public expenditure. The City then becomes responsible for the continued maintenance of the land and the costs involved in the development of the site.

Expropriation

This technique is definitely the last resort and should only be considered when all other attempts to acquire or control land have failed. The municipality has, by law, full expropriation powers given by provisions of the Municipal Act. It may, in special circumstances, be the only way to acquire important parcels of land for open space purposes. However, the municipality should proceed with caution in the use of this method because expropriation is a lengthy process and politically, it is very unpopular.

CONTROL TECHNIQUES

When acquisition of land is not feasible or desirable, the municipality can use other methods to preserve and protect open space.

Official Plan

The Official Plan is an important public education document that communicates the open space policies of Council. It can be used to define and delineate public open space uses throughout the municipality and identify areas of need. The Official Plan can also protect and preserve public open space by requiring that if any portion of these lands are needed for other important public uses, for example, suitable land of an equivalent size must be provided to replace the loss.

Easements - negative

When a municipality purchases an easement, it is purchasing a limited right to a property for a specific purpose. In the context of the control of open space, the municipality would purchase negative easements such as scenic or conservation easements. This type of easement restricts the owner of the land and refrains him from detracting from the beauty of his land. Scenic easements allow public view of the land but not access. Conservation easements restrict development on environmentally sensitive or unstable lands. Easement agreements are binding on the present and all subsequent land owners. This form of restriction is best applied to limited areas with easily distinguishable boundaries. Most agreements of this type include a reverter clause so that if the purpose for which the easement was purchased is abandoned, then the agreement becomes void and all rights are returned to the owner. The advantage to the municipality is that it does not have to pay the full costs of acquisition and the land remains privately maintained and subject to the payment of property taxes.

ACCESS TECHNIQUES

Easements - positive

This type of easement provides the purchaser with the right to do something with part of the property. Municipalities may purchase positive easements (or right of way) to allow for public access via a footpath or bicycle trail for example. Easements are often used in this way to connect publically-owned parcels of land into an open space system when acquisition is not possible. All other features of negative easements discussed above apply to positive easement agreements. Problems can occur when scenic easements are assumed to grant access to privately owned lands. For example, if people trespass on to land covered by a scenic easement only, the agreement may become void due to this violation. Easements that provide access will cost a great deal more than easements that are for purely visual purposes.

Leasing Techniques

A lease is a contract allowing the use of land for a specified time. In the City of Toronto, presently, 3-6 parks are leased by the City for the public use of privately owned land. Frequently the length of the lease period extends over several decades. Pat Foran has advised that a park lease should run at least as long as the length of the debenture period. The practice of leasing land for park purposes has both advantages and disadvantages. The main advantage of short-term leasing is that the City can ´try out´ new locations for future parks and open space, receiving feedback from the public before a financial commitment is made. The City can achieve a degree of flexibility in choice site locations through the use of this technique. The advantages of leasing are, however, relatively few. The disadvantages of leasing in the long-term usually far outweigh the immediate advantages. The City may be running into problems in the future if many inner core parks are leased. The chances of renewal are slim. It is difficult to determine long range plans regarding the maintenance, enlargement and enhancement, if the location of parkland is constantly shifting. It takes time (i.e. for trees to mature) for a park to develop. Leasing should not be used extensively since this technique could serve to undermine the future stability of the parkland system. It is an option that works well under specified circumstances. Leased parkland parcels should be considered as additional or ´bonus´ parcels of public open space and not be included in the land area calculations to determine need.

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Figure 2: TECHNIQUES FOR PRESERVING PUBLIC OPEN SPACE

ACQUISITION TECHNIQUES:

Purchase of the Fee Simple*
Purchase/Gift with Life Tenancy*
Purchase and Leaseback*
Purchasing of Options*
Tax Foreclosures
Mandatory Dedication
Redevelopment Process
Trade of Transfer*
First Right to Purchase
Land Banking
Expropriation*
Donations or Bequeathments

CONTROL TECHNIQUES

Easements - negative*
Zoning
Official Plans*
Restrictive Covenants

ACCESS TECHNIQUES

Easements - positive*
Leasing*
By-Products of Public Undertakings
Shared Use of Publicly Owned Lands

* - refers to those techniques discussed in the text.